THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas/Master-In-Equity

James O. Spence, Master-In-Equity

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SC Court of Appeals

Case No. 2011-CP-32-2968

Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gehlken, Kenneth W. Kelly, Anita B. Kelly, Stephen F. Linder, Sr., Jackie Bower Linder, and Kathry A. McDaniel ..... Appellants,

v.

Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire, and Trust "B" Created by U. W. Everett L. Stoudenmire and Valiska F. Coleman ..... Respondents.

RECORD ON APPEAL

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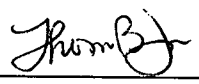
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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 24, 2014



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COPY

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) Civil Action No. 2011-CP-32-02968

Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gehlken, Kenneth W. Kelly and Anita B. Kelly, Stephen F. Linder, Sr. and Jackie Bower Linder, and Kathryn A. McDaniel

Plaintiffs,

vs.

Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michell Stoudenmire and Laura Brittany Stoudenmire, and Trust "B" Created by U/W Everett L. Stoudenmire and Valiska F. Coleman

Defendants

ORDER

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The parties tried this Hilton Place Subdivision Lake Access easement obstruction case on July 30, 2013. Thomas B. Smith, Esq. represented the Plaintiffs, while H. Clayton Walker, Jr., Esq. represented the Defendants.

Hilton Place Subdivision was developed in 1983. In 2010, Defendants Smith and Bell bought the Lake Access parcel, cleaned the lot, erected a gazebo, fire pit, a storage shed/ bathroom/outhouse, and generally improved the lake access lot. While Plaintiffs dispute Smith and Bell's right to place improvements on the Lake Access lot, they admit that neither the gazebo nor the storage shed/bathroom/outhouse obstruct their lake access. Smith and Bell

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testified that they do not intend to obstruct the lake access easement and have not, except for possible temporary events relating to construction activities, ever blocked or intended to block the lake access.

Plaintiffs claim (1) the subdivision restrictions prohibit building structures on the Lake Access, (2) the access easement should be construed to include access across the entire parcel, at all times, not just the portion necessary for lake access, (3) the grantor has a fiduciary duty to either convey the property as a common area to the homeowner's association or, alternatively, not to convey the property to Defendant Smith and Bell, and (4) equity favors the Plaintiff.

Defendants argue that (1) the subdivision restrictions do not apply to the Lake Access, or if they did, a subsequent modification cured any violation, (2) the easement is limited in scope to lake access and as the owner of the underlying or serviant estate, the Defendant can improve the Lake Access so long as improvements do not obstruct access to the lake, and (3) the work performed by the Defendants improved the value of the Lake Access and surrounding property.

FACTUAL/PROCEDURAL BACKGROUND

The Court has reviewed the exhibits and weighed the testimony of the witnesses and finds the following:

This case involves lake property developed by Charles Coleman and E.L. Stoudenmire. A plat dated September 19, 1983 shows numerous numbered lots in a subdivision named Hilton Place. Including on the plat is a piece of property entitled "Lake Access". *See* Lexington County Register of Deeds, Plat Book 194-G at Page 60; re-recorded at Plat Book 242 at Page 150.

Restrictions on the subdivision dated October 11, 1983 were filed on October 12, 1983 and are common and straightforward. *See* Plaintiff's Exhibit 4. They state the restrictions are

"imposed upon all lots hereinafter designated" and later says they apply to "all those lots shown on [the] plat". *Id.* at Preamble and ¶ 12. Additionally, the Restrictions specify "they are for the benefit of the Grantors who may change or modify the terms contained herein at any time". *Id.*

As is typical, the Restrictions were from time to time modified. *See* Record Book 789, Page 217 (allowing a residence within utility easement); Record Book 880, Page 34 (allowing a storage building otherwise in a setback); Record Book 1883, Page 262 (allowing construction otherwise in a setback).

A Confirmatory Amendment to Restrictions on Hilton Place Subdivision was signed on February 4, 1999 and filed on February 5, 1999. *See* Defendant's Exhibit 11. Said recording notes the restrictions were intended to be imposed on those numbered lots shown on the initial plat and specified those as Lots 1-16 of Block A, Lots 1-9 of Block B, Lots of 1-6 Block C, and Lots of 1-2 Block D and restates that the restrictions only apply to those numbered lots. It also states "Nothing contained herein shall be construed to impose any covenants, conditions or restrictions on any other property shown on the aforesaid plat." Said modification was signed by Charles Coleman's wife, as Mr. Coleman was then deceased. It was also signed by Everette L. Stoudenmire Jr, and Ernestine K. Stoudenmire as Co-Trustees of a Trust created by Everette L. Stoudenmire.

In July 2010, the Lake Access was deeded to Judson P. Smith and Christy Brabham Bell by deed signed by Charles S. Coleman; Thomas Coleman; Jacob C. Coleman; Valiska C. Freeman; George A. Stoudenmire, individually and as Trustee for William W. Stoudenmire; and, Linda B. Stoudenmire, individually and as Attorney in Fact for Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire. *See* Plaintiff Exhibit 16. The Coleman and Freeman grantors held one-half of the property by virtue of a deed of distribution from the

3 IN 3

Estate of Valiska F. Coleman. The Stoudenmire grantors held one-half of the property by virtue of a deeds from the Trust of Everette L. Stoudenmire and deed of distribution from the Estate of Everette L. Stoudenmire Jr. The deed was in exchange for consideration of $25,000. Additionally, the deed stated "This conveyance is made subject to easements, conditions and restrictions of record affecting subject property."

After purchase of the property, Smith and Bell performed work on an existing boat ramp, and built a dock, gazebo, and storage building with a bathroom. *See* Trial Transcript, J. Smith's testimony, 199-200; *see also* Defendant Exhibits 2 and Plaintiff's Exhibits 5-8. A driveway runs through the Lake Access from the public road to the boat ramp. *See* Defendant Exhibits 1 and 6 and Plaintiff's Exhibits 6-8.

In January 2013, the Defendant Grantors waived any right to approve or, alternatively, approved construction of the improvements to the Lake Access. *See* Attachment C of Defendant's Memorandum in Support of its Motion to Dismiss.

This suit has been brought by owners of lots 7, 8, 9, and 10 of Block A; lots 2 and 4 of Block B; and, lots 5 and 6 of Block C. Plaintiffs have admitted there is no permanent, physical impediment (fence, ditch, etc.) to their use of the Lake Access and that no one has ever denied them use of the property for lake access. *See* Trial Transcript, V. Gehlken testimony, 76 and, S. Linder testimony, 48. Defendant Smith also testified the Lake Access has been available for use as access to Lake Murray since his purchase of the property, with the exception of limited and temporary times during the construction of improvements on the property. *See* Trial Transcript, J. Smith's testimony, 192-193.

LAW/ANALYSIS

1. Application of the Subdivision Restrictions to the Lake Access.

Plaintiffs argue that the general subdivision restrictions apply to the Lake Access and prevent the construction of the improvements that have been placed on the Lake Access. Defendants argue the restrictions do not apply to the Lake Access and, alternatively, that the subsequent 1999 Confirmatory Amendment and 2013 Approval and Waiver cures any defect.

It is well settled in South Carolina that restrictions can be created by deed, declaration, or implication, as through filing of a plat. *Queen's Grant II Horizontal Property Regime v. Greenwood Development Corp.*, 628 S.E.2d 902, 913, 368 S.C. 342 (Ct. App. 2006). Regarding the interpretation of restrictions, restrictions on the use of property will be strictly construed with all doubts resolved in favor of free use of the property. *Seabrook Island Property Owners Ass'n v. Marshland Trust, Inc.*, 596 S.E.2d 380, 383, 358 S.C. 655 (Ct. App. 2004); *Tupper v. Dorchester County*, 326 S.C. 318, 326, 487 S.E.2d 187, 191 (1997).

Furthermore, the state Supreme Court has said in reference to the restriction of use of property and creation of an easement "that in the interpretation of maps and plats intention will not be inferred from symbols of uncertain meaning". *Hamilton v. CCM*, Inc., 274 S.C. 152, 157, 263 S.E.2d 378, 380 (1980). An easement is also limited to a use which is reasonably necessary and convenient and as little burdensome to the servient estate as possible. *See generally Hill v. Carolina Power & Light Co.*, 204 S.C. 83, 28 S.E.2d 545 (1943). Finally, "Covenants in deeds impose restrictions on specific lots or parcels of property, rather than covenants which apply to an entire subdivision." *See South Carolina Equity: A Practitioner's Guide* (Lowell et al., 2010) at 132-133.

A brief chronology of the facts is helpful. The testimony and evidence is:

1) in October 1983 the Hilton Place plat and restrictions were recorded, *see* Plaintiff's Exhibit 4;

2) in April 1990, a deed was issued to Plaintiff Snow reflecting an easement over the Lake Access, *see* Plaintiff's Exhibit 2;

3) in May 1992 a deed was issued to Plaintiff Kelly, *see* Plaintiff's Exhibit 13;

4) in October 1992 a meeting was held by some owners to discuss making improvements to the Lake Access, *see* Plaintiff's Exhibit 18A;

5) in September 1997 a deed was issued to Plaintiff Campitella, *see* Plaintiff's Exhibit 22;

6) in February 1999 Confirmatory Amendment to the Restrictions was recorded, which notes that the initial restrictions were intended to be imposed on the numbered lots and only on the numbered lots, and that the restrictions were not intended to apply to any other piece of property on the plat, *see* Defendant's Exhibit 11;

7) in January 2010 the Lake Access was listed for sale, for the second time, *see* Plaintiff's Exhibit 23;

8) in July 2010, the Lake Access was deeded to Defendants Smith and Brabham, *see* Plaintiff's Exhibit 16;

9) Plaintiffs later objected to an outbuilding, deck, gazebo and dock that had recently been built, see Trial Transcript, J. Smith testimony 200-201 (stating the only complaint he received from neighbors during the construction was from Steve Linder regarding repair of a sewer line); and

10) in January 2013, the heirs of the original grantors signed a Waiver and Approval of Construction on the Lake Access, *see* Attachment C of Defendant's Memorandum in Support of its Motion to Dismiss.

The Court is persuaded that the plain language of the restrictions suggests they were not intended to apply to the Lake Access. Plaintiff argues that the recorded restrictions apply to the Lake Access lot. While, the court requested direct authority on this issue, neither party furnished any to the court. Plaintiff's argument seems flawed for the following reasons: (1) The grantor created the lake access and restrictions at the same time; both sprang into existence simultaneously for different purposes—one to govern building etc put on residential lots, the other to provide back lot owners with lake access. (2) Such an application of the restrictions to

the lake access parcel would defeat the very purpose of lake access. For instance, Restriction number one states "No lot or property conveyed hereunder shall be used for any other than private residential purposes." Restriction number two requires a residence be at least 1,200 square feet and prohibits basements. (3) Further under ordinary easement law, the owner of the dirt, under proper circumstances, can place a gate across the access. A gate could certainly be a structure. On their face, these restrictions and the restrictions in their entirety are simply inapplicable to the Lake Access.

The Court finds the restrictions relating to residential lots do not apply to the Lake Access lot. Instead, a reading of the restrictions makes apparent they are meant to maintain certain standards with regard to the appearance of residences. For instance, restrictions regarding appearance include "no trailer, tent, shack or temporary structure" and that "[a]ll rubbish, garbage and trash shall be kept in closed cans ... behind the house". *See* Restriction Number 5. The general scheme and specific language of the restrictions suggests they are related to the residential lots in the development. Thus, the restrictions simply do not apply to the Lake Access.

Furthermore, even if the Court found an ambiguity in the language and application of the restrictions, the Court wound find existing case law compels a finding that the construction of the restrictions should be resolved in favor of the free use of the land. This would result in a finding that the restrictions do not apply to the Lake Access.

The Court has also considered the application of the February 1999 Confirmatory Amendment to the Restrictions as well as the January 2013 waiver of any restrictions relevant to the Lake Access.

Current South Carolina law allows modification of restrictions if five factors are met. *AJG Holdings LLC v. Dunn*, 706 S.E.2d 23, 391 S.C. 463 (Ct. App. 2011). These factors are (1) the right to amend the covenants must be unambiguously set forth in the original declaration of covenants; (2) the developer, at the time of the amended covenants, must possess a sufficient property interest in the development; (3) the developer must strictly comply with the amendment procedure as set forth in the declaration of covenants; (4) the developer must provide notice of amended covenants in strict accordance with the declaration of covenants and as otherwise may be provided by law; and (5) the amended or new covenants must not be unreasonable, indefinite, or contravene public policy. *Id.*

The Court has considered the February 1999 Confirmatory Amendment to the Restrictions as well as the January 2013 waiver of any restrictions relevant to the Lake Access, but does not believe Defendants' case relies on either of these documents as they merely confirm the original purpose and plain meaning of the parcel shown on the 1983 subdivision plat—that the restrictions were imposed on the numbered lots and not the area marked "Lake Access".

2. *Easements are limited to reasonable use.*

Plaintiffs argue that they have an unrestricted and unfettered right to use every inch of the Lake Access, essentially asking that the Lake Access be treated as a common area. Defendants argue the use and scope of the easement must be reasonably necessary and convenient to provide access to the lake, and as little burdensome to the Defendants' estate as possible.

General principles related to easements say the "use of an easement claimed must be confined strictly to the purposes for which it was granted". 25 Am.Jur.2d *Easements* § 82. "Where the grant of an easement such as a way does not definitely locate it, a reasonable and convenient way for all parties is thereby implied, in view of all the circumstances. The location

of an undefined right of way must be reasonable to both the dominant and servient estates, considering the condition of the place, the purpose for which it was intended, and the acts of the grantee." 25 Am.Jur.2d, *Easements* § 64. "It is often said that the parties are to be presumed to have contemplated such a scope for the created easement as would reasonably serve the purposes of the grant." 3 Powell, Real Property at 34-140. "When the easement has been created only by a reference in the conveyance to a map ..., the scope of the intended easement rests on inference from the circumstances." 3 Powell, Real Property at 34-140.

"Ordinarily, a grant or reservation of a right of way 'over' a particular area, strip, or parcel of ground is *not* to be construed as providing for a way as broad as the ground referred to." 25 Am.Jur.2d, *Easements* § 77 (emphasis added). *See also Andersen v. Edwards*, 625 P.2d 282, 286 (Alaska, 1981) ("To sustain (a) contention (that an easement grants the right to use any and all of a strip of land), the plaintiff must point to language in the deed which clearly and definitely fixes the width of the right of way."); *Barton's Motel, Inc. v. Saymore Trophy Co.*, 113 N.H. 333, 306 A.2d 774, 775 (N.H.1973) ("A grant or reservation of a right of way 'over' a particular area, strip, or parcel of ground is not ordinarily to be construed as providing for a way as broad as the ground referred to.").

Finally, "Where language in a plat reflecting an easement is capable of more than one construction, that construction which least restricts the property will be adopted." *Tupper v. Dorchester County*, 326 S.C. 318, 326, 487 S.E.2d 187, 191 (1997). Furthermore, the state Supreme Court has said in reference to the restriction of use or property and creation of an easement "that in the interpretation of maps and plats intention will not be inferred from symbols of uncertain meaning". *Hamilton v. CCM, Inc.*, 274 S.C. 152, 157, 263 S.E.2d 378, 380 (1980).

Additionally, an easement is limited to a use which is reasonably necessary and convenient *and as little burdensome to the servient estate as possible. See generally Hill v. Carolina Power & Light Co.*, 204 S.C. 83, 28 S.E.2d 545 (1943) (emphasis added). In *Clemson University v. First Provident Corp.*, 260 S.C. 640, 651, 197 S.E.2d 914, 919 (1973), the state Supreme Court said, "the rights of the easement owned and of the landowner are not absolute, irrelative, and uncontrolled, but are so limited, each by the other, *that there may be a due and reasonable enjoyment of both the easement and the servient tenement.* The owner of an easement is said to have all rights incident or necessary to its proper enjoyment, but nothing more." (emphasis added).

The Court finds the Defendants' arguments are persuasive. First, the plat designates the property as a "Lake Access" and not as a park or common area. "Access" has been defined as "[a]n opportunity or ability to enter, approach, pass to and from, or communicate with." *See* Black's Law Dictionary 14 (8th ed., 2004).[1] If this definition of "access" is modified by "lake", then the only permissible interpretation can be that the easement allows someone to enter into, approach, or pass to and from the lake. The clear intent of the words "Lake Access" has to be to provide a way of ingress and egress to the lake through the property. This interpretation is the least restrictive and burdensome reading of the easement. This interpretation also preserves Plaintiffs' access to the lake, which is consistent with the plain meaning of the plat.

Second, the request for unfettered access to each and every inch of the Lake Access ignores the property rights of Defendants Smith and Bell as well as established case law that states an easement's scope is to be limited to that which is reasonably necessary and as little burdensome as possible. The Court finds an interpretation of this easement as granting to the

[1] "Access easement" is also defined as "An easement allowing one or more persons to travel across another's land to get to a nearby location, such as a road." Black's Law Dictionary 548 (8th ed., 2004).

Plaintiffs a right to use the 15 foot driveway to access Lake Murray by foot or to put a boat into the water serves the purpose of providing the Plaintiffs with lake access. The Court finds the intent as found in the plain language of the grant on the plat is to provide "lake access." This finding combined with case law calling for the least restrictive construction of an easement compels a finding that the Lake Access only grants reasonable access to and from Lake Murray.

The Plaintiffs' request for unrestricted and unfettered access to every inch of the Lake Access at any time, would transform the lot from a lake access easement into a common area. This argument is not supported by the factual evidence, an analysis of the restrictions nor, the plat or case law which requires an easement to be limited to a use which is reasonably necessary and convenient and as little burdensome to the servient estate as possible. *See generally Hill v. Carolina Power & Light Co.*, 204 S.C. 83, 28 S.E.2d 545 (1943).

Hill v. Beach Co., 279 S.C. 313, 306 S.E.2d 604 (1984), involved an easement to access the beach through private property. There, the Supreme Court upheld the provision of pathways across private land to the beach. Similarly, here the Court finds the Plaintiffs have the right to enter from the street and use the driveway to the boat ramp on the Lake Access as a pathway to and from Lake Murray.

3. *No Fiduciary Duty Exists or Has Been Breached.*

The Plaintiffs argue some of the Defendants breached a fiduciary duty owed to the Plaintiffs when they sold the Lake Access to Defendants Smith and Bell rather than either retaining the property or conveying it to a homeowner's association.

As to breach of a fiduciary duty, the Court is cognizant of a growing body of case law that discusses a developer's fiduciary duty to residents of a subdivision. *See e.g. Concerned Dunes West Residents, Inc. v. Georgia-Pacific Corp.*, 562 S.E.2d 633, 349 S.C. 251 (2002);

Goddard v. Fairways Dev. Gen. Partn., 310 S.C. 408, 426 S.E.2d 828 (Ct. App. 1993). However, the facts of this case are distinguishable from this developing case law. First, there is no homeowner's association in the case and no evidence the original grantors accepted responsibility to create a homeowner's association. Second, there is no persuasive evidence that the original grantors ever agreed to convey the Lake Access lot to a homeowner's association. Furthermore, conveying the Lake Access to a homeowner's association would be redundant as the developer had conveyed to various lot owners an easement over the Lake Access. Finally, it is widely recognized that the servient estate holder can convey the servient estate. This Court does not believe exercising the right to convey the underlying estate qualifies as a breach of a fiduciary duty under the facts present in this case.

4. Fraud

Plaintiffs also argue the Defendant Grantors committed fraud in either the original conveyance of the Plaintiff's residential lots, the 1999 modification of the restrictions, or the conveyance of the Lake Access.

The Court finds the no persuasive evidence evidencing any indication of fraud nor even an agreement, or promise to convey the Lake Access to any future homeowner's group. The Court also finds the 1999 modification to the restrictions was consistent with the intent of the original restrictions and merely clarified the original intention. Finally, the Court finds the Defendant Grantors had a right to convey the Lake Access and that nothing in that action constituted a fraud against the Plaintiffs.

5. Equities of the Case.

Plaintiffs argue the equities of the transfer of the property support a finding that they

should have unfettered and unrestricted access to every inch of the Lake Access. However, based on the evidence submitted to the Court, the Court finds the existing structures do not obstruct or interfere with lake access. The Court also finds the Defendants have not tried to stop access to the lake and that any testimony of an obstruction was one that was related to either temporary construction activity or normal temporary activity (such as putting a boat in the water).

Plaintiffs have also not plead nor proven by any other equitable theory, such as adverse possession or equitable use, an entitlement to the use of the Lake Access beyond that addressed above as allowed under the easement. While there may have been discussions and a general desire by some of the Plaintiffs to form a homeowner's association, obtain title to the property and create a common area, those plans simply did not come to fruition. Instead, the evidence shows the property was advertised for sale and that the Plaintiffs did not take any affirmative steps to form a homeowner's association or purchase the property.

6. Nuisance or Diminution in Property Value.

Plaintiffs chief complaint appears to be one for nuisance or diminution in property value as a result of Defendants Smith and Bell's use of the property. While Plaintiff property owners are qualified to give an opinion on the value of their property, the only testimony regarding diminution of value was related to the bathhouse.

The Court finds Plaintiff's testimony unpersuasive. Plaintiffs testified that they simply believed that the outhouse/ bathhouse on a back lot lake access lot was not in character for their type of subdivision, and therefore, stated that their lots had been diminished in the range of $10,000 to $25,000.00. These witnesses admitted the downturn in the economy could have impacted their property's value, and presented no other basis for this testimony nor offered

comparable sales/conditions/ examples or expert testimony. Certain witnesses admitted on cross –examination that the Lake Access lot was now better maintained.

Defendant Smith testified that he had expended about $100,000 as he (1) hauled off truck loads of debris from the lot (2) had hauled in approximately 20 loads of dirt (3) erected the gazebo (4) built a fire fit (5) made dock improvements (6) added concrete to and improved boat ramp (7) fixed sewer line problems (8) built the outhouse/bathhouse to permit specifications equivalent to a four bathroom house.

He testified, without objection, that he had recently obtained an equity line loan and the appraised value of his property had actually increased approximately $15,000.00.

The greater weight of the evidence established that the Lake Access has been generally improved since acquisition by Defendants Smith and Bell. The property has been cleared of debris, septic lines have been repaired, and structures well built.

Conversion of Lake Access into a Common Area.

Plaintiffs have alternatively asked the Court for an order stating the structures on the Lake Access may remain so long as the Plaintiffs have access and use of the structures. Essentially, they ask the Court to equitably convert the Defendants' improvements into a joint ownership (Plaintiff Post Trial Memo Page 13 "Clearly the only effective relief on this issue is issuing a mandatory injunction and a finding which allows all Plaintiffs to use and enjoy the entire Lake Access Lot (including its improvements should the Court not order all of them removed as intended by the original grantor.) While this remedy is requested, the court notes that Plaintiff's Post Trial Memo Page 12 D. Common Areas/Common Elements, Plaintiff candidly admits that there was no Master HOA deed and no indication on plat that Lake Access lot was intended to be a common area.

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The law regarding easements makes clear that use of the property by the servient estate holder that does not conflict with the purpose of the easement is allowed. "The right to use the land remains in the servient owners, without any express reservations to that effect, so far as such right does not conflict with the purpose and character of the easement." 25 Am.Jur.2d, *Easements* § 86. Additionally, "the servient owner may cultivate or make improvements on the land subject to an easement of way, or use the way for any purpose, provided he does not interfere with the right of passage resting in the owner of the easement." 25 Am.Jur.2d, *Easements* § 86. *See also* 25 Am.Jur.2d, Easements § 87 ("the grant [of an easement] is not interfered with by building over the way, provided there is no interference with reasonable use of the easement as a passageway.")

The Court rejects the Plaintiffs' request because the Plaintiffs' use of the easement is limited to a use which is reasonably necessary and convenient and as little burdensome to the servient estate as possible. The Court finds the structures do not interfere with the Plaintiffs' reasonable and convenient use of the Lake Access for access to Lake Murray and, in fact, the improvements to the boat ramp may aid in the Plaintiffs' use of the easement. The Court finds the Plaintiffs' suggestion is unwarranted and certainly not equitable.

CONCLUSION

Defendants' structures, as they exist, do not obstruct lake access. Therefore, all claims related to easement obstruction are denied, as are all other claims by the Plaintiffs.

IT IS SO ORDERED.

November 22, 2013

James O. Spence

The Hon. James O. Spence
Lexington County Master-in-Equity



TMS 001635-03-009

Lake Access Lot

Printed: Jul 24, 2013

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STATE OF SOUTH CAROLIA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) IN THE 11TH JUDICIAL CIRCUIT

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CLERK OF COURT
LEXINGTON SC

Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gehlken, Kenneth W. Kelly and Anita B. Kelly, Stephen F. Linder, Sr. and Jackie Bower Linder, and Kathryn A. McDaniel,

Plaintiffs,

v.

Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire, and Trust "B" created by U/W Everett L. Stoudemire and Valiska F. Coleman

Defendants.

NON-JURY

Case No. _____

COMPLAINT

2011CP3202968

I. JURISDICTION AND VENUE

1. On August 2, 2010, Defendants Judson P. Smith ("SMITH") and Christy Brabham Bell ("BELL") purchased the real property that is the subject of this lawsuit which is located in Lexington County, South Carolina, in Hilton Place Subdivision and designated as the "Lake Access" lot on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates Inc., dated September 19, 1983 (hereinafter also referred to as the "Lake

Access" lot).

2. Lake Access Deed. Attached hereto as Exhibit 1 is an accurate copy of SMITH and BELL's Deed for the Lake Access lot - which is incorporated herein and is the subject matter of this lawsuit.

3. Plat. Attached hereto as Exhibit 2 is an accurate copy of the September 19, 1983 Plat ("PLAT") for Hilton Place Subdivision and a copy of the written amendments to such Plat.

4. Restrictions. Attached hereto are accurate and complete copies of all of the Restrictions, Modifications and Confirmatory Modifications of record for Hilton Place Subdivision:

A. The original Restrictions filed October 12, 1983 (Exhibit 3);

B. The Modification of Restrictions filed March 4, 1986 (Exhibit 4);

C. The Modifications of Restrictions filed March 23, 1987 (Exhibit 5);

D. The Modification of Restrictions filed July 16, 1991 (Exhibit 6); and

E. The Confirmatory Amendments to Restrictions filed February 5, 1999 (Exhibit 7).

II. GENERAL FACTS

5. Before SMITH and BELL purchased the Lake Access lot in August 2010, there were no structures built on the Lake Access lot and it was used by the public only as land to access Lake Murray.

6. Plaintiff Elizabeth Snow (f/k/a/ Elizabeth Bell) ("Snow"):

A. In 1990, purchased Lot No. 6 in Hilton Place Subdivision as indicated by an accurate copy of her deed attached hereto as Exhibit 8;

B. Snow's deed incorporates the PLAT and it also states: "Also conveyed herwith [sic] is an easement for the use and enjoyment by the lot owner and the lot owners immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be appurtenant to the land herin [sic] conveyed"; and

C. Snow did not consent to or otherwise authorize any modifications or amendments to the Restrictions after her purchase.

7. Plaintiffs Kenneth W. Kelly and Anita B. Kelly ("Kelly"):

A. In 1992, purchased Lot 4 in Hilton Place Subdivision as indicated by Exhibit 9;

B. Kelly's deed incorporates the PLAT and refers only to those Restrictions recorded in Book 611 ad Page 232; and

C. The Kellys did not consent to or otherwise authorize any modifications or amendments to the Restrictions after their purchase.

8. Mark S. Campitella and Chrissie E. Campitella ("Campitella"):

A. In 1997, purchased Lot 2 in Hilton Place Subdivision as indicated by Exhibit 10;

B. Campitella's deed incorporates the PLAT; and

C. The Campitellas did not consent to or otherwise authorize any modifications or amendments to the Restrictions after their purchase.

9. Jackie Bower Linder:

A. In 1999, purchased Lots 10 and 10A in Hilton Place Subdivision as indicated by Exhibit 11; and

B. Jackie Bower Linder's deed incorporates the PLAT; and

C. Did not consent to or otherwise authorize any modifications or amendments to the Restrictions after her purchase.

10. Henry D. Gehlken, Sr. and Vivian S. Gehlken ("Gehlken"):

A. In 2005, purchased Lot 5 in Hilton Place Subdivision as indicated by Exhibit 12;

B. Gehlken's deed incorporates the PLAT; and

C. Have not consented to or otherwise authorized any modifications or amendments to the Restrictions after their purchase.

11. Kathryn Ann McDaniel ("McDaniel"):

A. Purchased Lots 7 and 8 in Hilton Place Subdivision in 2010 as indicated by Exhibit 13;

B. McDaniel's deed incorporates the PLAT; and

C. Has not consented to or otherwise authorized any modifications or amendments to the Restrictions after her purchase.

12. Stephen F. Linder and Jackie Bower Linder ("Linders"):

A. In 2011, purchased Lots 9 and 9-A in Hilton Place Subdivision as indicated by Exhibit 14;

B. Linders' deed incorporates the PLAT; and

C. Have not consented to or otherwise authorized any modifications or amendments to the Restrictions after their purchase.

13. Defendants Trust "B" created U/W Everett L. Stoudenmire and Valiska F. Coleman executed the Confirmatory Amendments in 1999.

14. Defendants Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman,

Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire ("Defendant Grantors") are the individuals who granted to SMITH and BELL the Lake Access Lot.

15. Since SMITH and BELL purchased the Lake Access lot, they have, individually or together:

A. Blocked Plaintiffs' access to and from Lake Murray over the Lake Access Lot;

B. Built an illegal or other sewer, outhouse and other structures on the Lake Access lot; and

C. Caused excessive noise and harmful and noxious smells to go onto Plaintiffs' lands.

COUNT 1 - DECLARATORY JUDGMENT

S.C. CODE SECTION 15-53-10, et seq.

16. Plaintiffs incorporate those allegations above into this Count as if set forth verbatim herein.

17. As indicated by the PLAT and the deeds, it was the intention of the original owner(s) of Hilton Place Subdivision that the Lake Access Lot always be unimproved and always be used for the public to access Lake Murray.

18. As indicated by the PLAT and the historical use of the Lake Access Lot until SMITH and BELL's purchase, the original owner(s) of Hilton Place Subdivision dedicated the entire Lake Access Lot to the use and enjoyment of the Plaintiffs and the public for ingress and egress to Lake Murray and for such other recreational purposes as are

consistent with boat launching and picnicking on the Lake Access Lot.

19. SMITH and BELL have blocked Plaintiffs' ability to launch their boats and otherwise use the Lake Access Lot as it was intended.

20. WHEREFORE Plaintiffs pray that this Court determine the Parties' rights to the Lake Access Lot and find that it was dedicated to public use and use by the Plaintiffs, that the entire Lot and not only the boat ramp and its associated paths were dedicated to public use and use by the Plaintiffs and that it cannot be used for any structures, buildings or dwellings, including any single family or other structure, and that SMITH and BELL must, within 30 days after this Court issues its decision, remove from the Lake Access Lot all sewers, buildings and structures that they have erected on the Lake Access Lot.

COUNT 2 - DECLARATORY JUDGMENT

S. C. CODE SECTION 15-53-10, et seq.

17. Plaintiffs incorporate into this Count those allegations above as if they were set forth in their entirety herein.

18. Paragraph 12 of the original Restrictions for Hilton Place Subdivision executed in 1983 state:

> The covenants, conditions and restrictions are hereby imposed upon all those lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of The RMC for Lexington County in Plat Book 194-G at Page 60.

(Exhibit 3)

19. By its clear terms, the Restrictions applied to every lot on the Plat, including the Lake Access Lot.

20. Plaintiffs Snow, Kelly and Campitella purchased their Lots before 1999.

21. Plaintiffs Snow, Kelly and Campitella did not agree or consent to the February 1999 Modifications of the Restrictions which do not include the Lake Access Lot as being restricted.

22. Plaintiffs Snow, Kelly and Campitella request that this Court declare that the Confirmatory Modifications filed in 1999 have no force or effect because these Plaintiffs had a vested interest in both the Lake Access Lot and the Restrictions before 1999, and that the Lake Access Lot must abide by original Restrictions, including but not limited to the restrictions on sewers, buildings, activities and uses of the Lake Access Lot.

COUNT 3 - BREACH OF CONVENANTS

23. Plaintiffs incorporate into this Count those allegations above as if set forth in their entirety herein.

24. The Lake Access Lot is subject to the original Restrictions filed in October 1983.

25. In violation of said Restrictions, SMITH and BELL have erected buildings and structures, have caused noxious odors and offensive activity to occur which has annoyed Plaintiffs and caused nuisances, have erected a non-permitted sewer which has leaked and caused damage to the Lake Access Lot, have erected temporary structures and upon reason and belief have or are about to erect a fence around the Lake Access Lot.

26. Plaintiffs demand judgment on their favor ordering SMITH and BELL to remove all such structures and buildings that violate the covenants and to permanently be enjoined from engaging in any further activity which violates these Restrictions.

COUNT 4 - SET ASIDE CONVEYANCE

FRAUD, NEGLIGENCE, BREACH OF FIDUCIARY DUTY

(AGAINST DEFENDANT GRANTORS ONLY)

24. Plaintiffs incorporate into this Count those allegations above as if set forth in their entirety herein.

25. Defendant Grantors, and their predecessors and successors in interest, either individually or jointly, represented to Plaintiffs falsely that the Lake Access Lot would always remain unimproved, that it was for Lake Access only, that Plaintiffs would have unfettered access to Lake Murray via the Lake Access Lot and that there would be no building or structures on the Lake Access Lot.

26. Defendant Grantors sold to SMITH and BELL the Lake Access lot for $25,000.00, which sum is only a fraction of the fair market value of the Lake Access Lot should it be used as a single family residence or any other purpose other than its intended use as only lake access.

27. Defendant Grantors knew, when they sold the Lake Access Lot to SMITH and BELL, that SMITH and BELL intended to use the Lake Access Lot for their exclusive purposes and to block access to Lake Murray for the Plaintiffs and Defendant Grantors knew that the Lake Access Lot had already been dedicated for public use and for use by Plaintiffs.

28. Defendant Grantors and their predecessors and successor in interest informed Plaintiffs that the Lake Access lot would improve the value of each of Plaintiffs' lots and Defendant Grantors and their predecessors in interest intended for Plaintiffs to rely on such representations; and Plaintiffs did reasonably rely on such representations.

29. Defendant Grantors and their predecessors had a duty, and a fiduciary duty, as those individuals who were responsible for maintaining the intended nature of Hilton Place Subdivision and the Lake Access Lot, to maintain the scheme of the Subdivision and maintain the Lake Access Lot as one on which nothing would be constructed and it would be use only by the public and by Plaintiffs as lake access and enjoyment.

30. Defendant Grantors breached their duties by conveying to SMITH and BELL for a ridiculously low price the Lake Access Lot, knowing that it was Defendant Grantors' duty to maintain ownership and possession of the Lake Access Lot for its intended purpose and intentionally, willfully and knowingly conveying to SMITH and BELL the Lake Access Lot that Defendant Grantors knew would not continue to be used for its intended purpose.

31. As a proximate result of Defendant Grantors' and their predecessors' actions, Plaintiffs' lots and residences have each lost significant value, and they have suffered pecuniary and monetary damages - which alone cannot make Plaintiffs whole; therefore, Plaintiffs demand judgment in their favor, actual damages and punitive damages; Plaintiffs also demand that the conveyance to SMITH and BELL be set aside and reconvened to Defendant Grantors, and that Defendant Grantors be ordered to maintain the Lake Access Lot as originally intended and dedicated - as an unimproved lot whose sole purpose is for the ingress, egress and enjoyment of Lake Murray.

Thomas Bailey Smith, Esq.
SMITH LAW FIRM
6326 St. Andrews Road
Columbia, SC 29212
803-740-0961
tsmithlawfirm@aol.com

EXHIBIT 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT

Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Soutdenmire

(hereinafter "Grantor") in the state aforesaid for and in consideration of the sum of Twenty-five Thousand and 00/100 Dollars ($25,000.00) in hand paid at and before the sealing of these presents by

Judson P. Smith and Christy Brabham Bell

(hereinafter referred to as "Grantee" which term shall include the singular and plural, masculine, feminine, and neuter) in the state aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said Grantee:

All that certain pieces, parcels or tracts of land, designated as "Lake Access" and Area of Lake = 3.00 acres – 130,553 sq.ft. on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc. dated September 19, 1983, later revised and recorded in the Register of Deeds Office for Lexington County in Plat Book 242 at page 150; said property having such sizes, shapes, dimensions, buttings and boundaries as will be shown by reference to the aforesaid plat.

This conveyance is made subject to easements, conditions and restrictions of record affecting subject property.

This being the same property conveyed to Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman and Valeska C. Freeman by deed of distribution in the matter of Valiska F. Coleman, dated March 8, 2007 and recorded in the Office of the Register of Deeds for Lexington County in Deed Book 11819 at page 323; and to Everette L. Stoudenmire, George Arthur Stoudenmire and George Arthur Stoudenmire as trustee for William E. Stoudenmire by deed from George Arthur Stoudenmire, as successor trustee for Trust B created U/W Everette L. Stoudenmire dated 3/7/88, dated June 23, 2005 and recorded in Book 12629 at page 121; and to Linda B. Stoudenmire, Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire by deed of distribution in the matter of Everette L. Stoudenmire, Jr., dated February 7, 2008 and recorded in Book 12661 at page 244.

TMS #001635-03-009 & #001635-03-018

Grantee's mailing address: 920 St. Andrews Rd., Columbia, SC 29210

Together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to easements and restrictions of record, all and

10 RE 0345

& must Recent Survey Recorded in Book 14372 at Page 305

singular the said premises before mentioned unto the said Grantee, the grantee's heirs, successors, and assigns forever, and the Grantor does hereby bind Grantor and Grantor's heirs, executors, administrators, successors and assigns to warrant and forever defend, subject to easements and restrictions of record, all and singular the said premises against Grantor and Grantor's heirs, executors, administrators, successors and assigns and against any person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITHIN THIS INSTRUMENT all references to the Grantor and the Grantee shall include the singular and plural, and any gender shall include all genders, including the neuter. Such words of inheritance shall be applicable as are required by the applicable gender of the Grantee and/or Grantor.

IN WITNESS WHEREOF Grantor has caused these presents to be executed on the 24 day of July, 2010.

WITNESSES:

GRANTOR:

(SEAL)
Charles S. Coleman, Jr.

(SEAL)
J. Thomas Coleman

(SEAL)
Jacob C. Coleman

(SEAL)
Valisia C. Freeman

(SEAL)
George Arthur Stoudenmire

(SEAL)
George Arthur Stoudenmire as Trustee for
William E. Stoudenmire

(SEAL)
Linda B. Stoudenmire

(SEAL)
Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire By Linda B. Stoudenmire Her Attorney-In-Fact

(SEAL)
Laura Brittany Stoudenmire
By Linda B. Stoudenmire Her Attorney-In-Fact

EXHIBIT 2

OCT 3 3 52 PM '83

...TIDDLE
...COUNTY

CENTERLINE OF ROAD DATA		
POINT No	BEARING	DISTANCE
272-270	S 62°10'27"W	191.39'
270-275	N 55°04'16"W	191.39'
275-267	N 55°04'16"W	56.36'
267-994	N 55°04'16"W	155.93'
994-393	S 69°55'07"W	155.95'
393-992	S 69°55'07"W	189.21'
992-1398	S 69°55'07"W	100.00'
615-596	S 79°02'23"W	100.00'
382-395	N 14°09'47"W	33.59'
395-381	N 14°09'47"W	179.90'
981-384	N 72°39'47"W	173.50'
384-386	N 72°39'47"W	64.21'
385-380	N 72°39'47"W	104.70'
380-386	S 69°56'35"W	104.70'
386-987	S 69°56'35"W	331.63'

CURVE DATA

CURVE No 1
Δ = 62° 45'17" RT
R = 313.82'
A = 343.72'
C = 326.79'
T = 191.39'

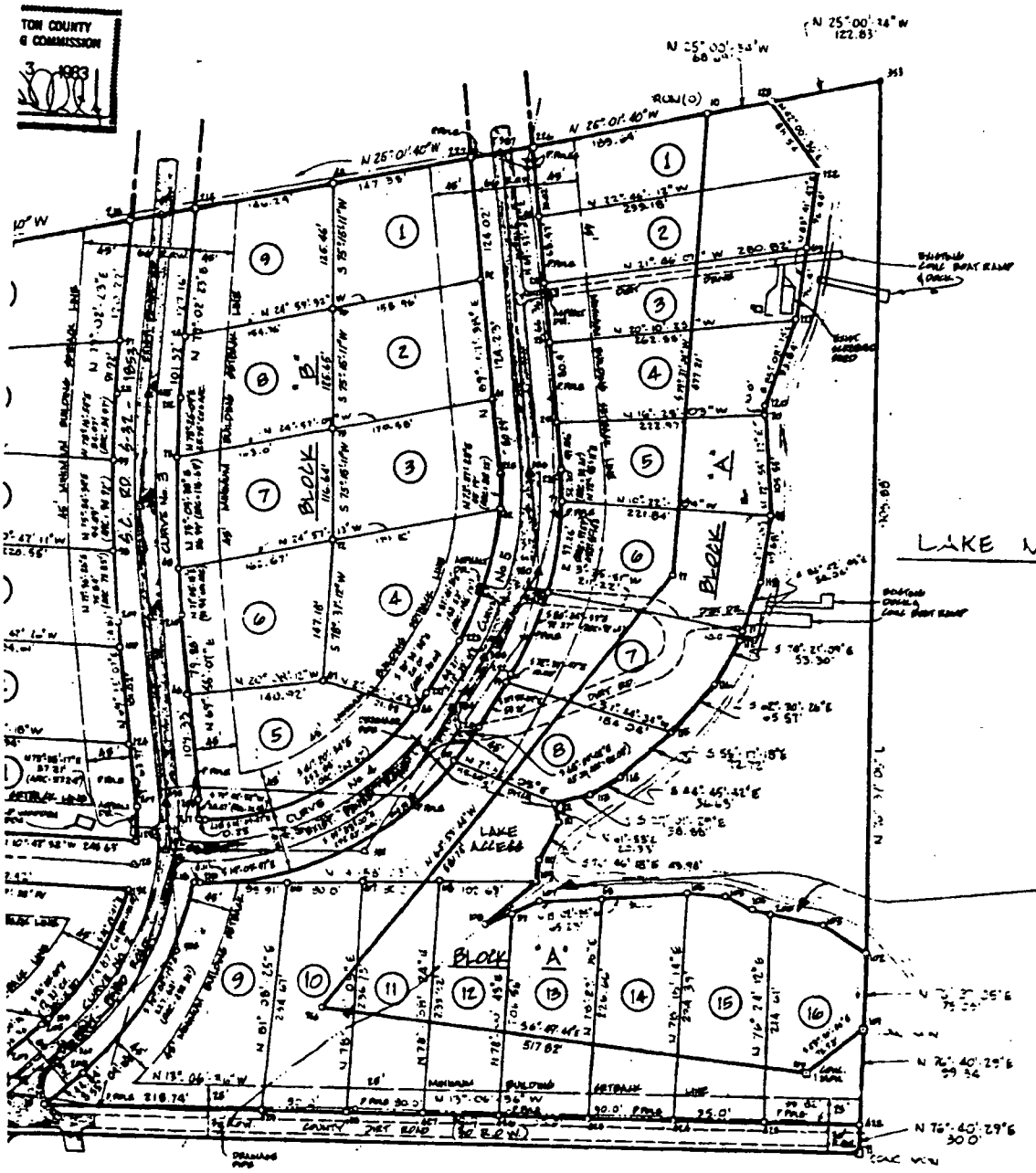
CURVE No. 2
Δ = 55°00'37" LT
R = 299.48'
A = 287.58'
C = 276.61'
T = 155.93'

CURVE No. 3
Δ = 9°07'16" RT
R = 1253.67'
A = 199.58'
C = 199.37'
T = 100.00'

CURVE No 4
Δ = 58° 30'00" LT
R = 309.81'
A = 316.32'
C = 302.76'
T = 173.50'

CURVE No. 5
Δ = 37° 21'39" LT
R = 309.67'
A = 201.93'
C = 198.37'
T = 104.70'

TOM COUNTY
E COMMISSION
1983



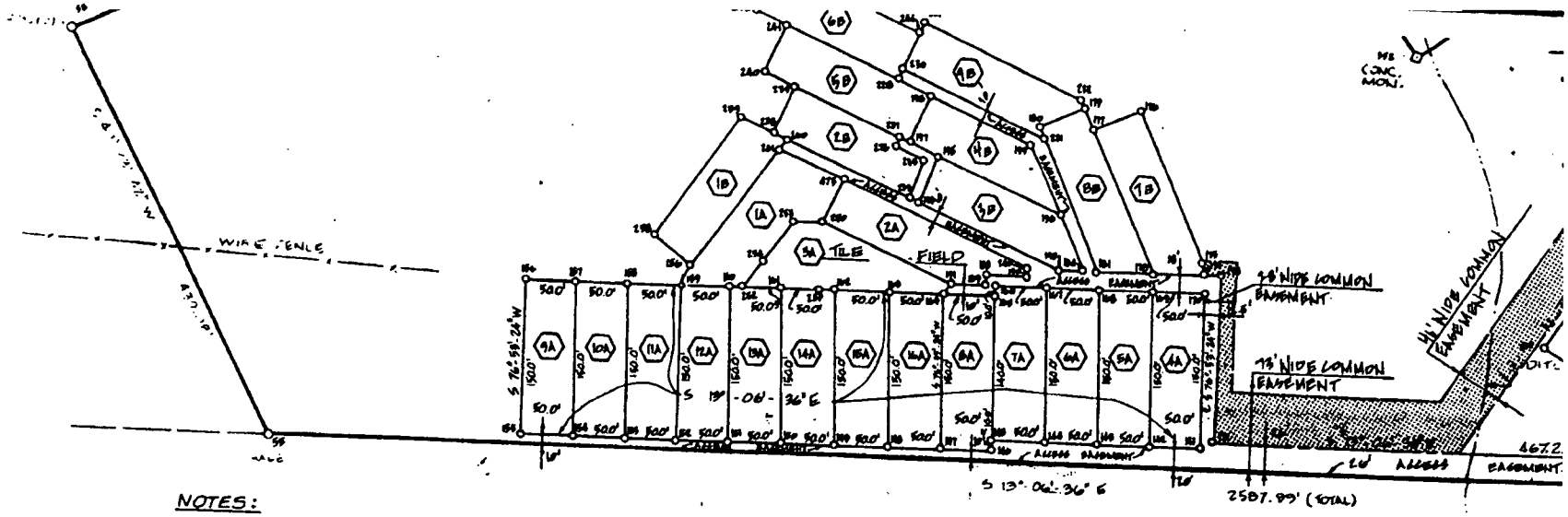
110-109	N 85° 47'-58" E	20.85'
109-108	S 55° 47'-27" E	10.89'
108-57	N 37° 29' 30" W	28.40'
57-107	N 37° 29' 30" W	35.00'
106-105	N 8° 33'-31" W	40.80
105-104	N 10° 16' 39" E	32.60'
104-203	N 1° 20' 47" W	17.37'
203-103	N 1° 20' 47" W	57.50'
103-102	N 18° 57' 12" E	52.65'

I HEREBY CERTIFY THAT THE RATIO OF PRECISION OF THE FIELD SURVEY IS (1' 3200') AS SHOWN HEREON

REFERENCE PLAT

1 - PLAT FOR EBER L. RILEY BY WILLIAM WINGFIELD, RLS DATED MARCH 2, 1961

30



NOTES:

1. PLAT OF HILTON PLACE SUBD. PREVIOUSLY RECORDED IN PLAT BOOK "194-G" AT PAGE 60 IN THE LEX. CO. R.M.C. OFFICE.
2. HILTON PLACE SHOWN ON LEX. CO. TMS. 01635.

LEXINGTON PLANNING C
MAR 1
REFERENCE PLAT PREV
AT PLAT BOOK 194-G

AREA OF BLOCKS A,B,C, & D, WELL SITE & TILE FIELD

NO.	REVISION	DATE	BY	APP.
1.	TO SHOW WELL SITE NO. 1 & TILE FIELD AREA, CHG. MISC.	8-27-82	J.M.	
2.	REVISE BEARINGS & DISTANCES	12-82	J.W.	J.M.F.
3.	CHANGED PT 249 TO 475	3-27-84	J.W.	J.M.F.
4.	CHANGED DIST. FROM 224 TO 77 LOT 5 FROM 32.20 TO 33.20	10-10-84	J.W.	JMF

NO.	REVISION	DATE	BY	APP.
5.	REVISE LOT 3B TO LOT 6B, LOT 7B TO LOT 8B; LOT 6B TO LOT 4B; LOT 4B TO LOT 3B; LOT 8B TO LOT 7B, ADD SEWER EASEMENTS	7/17/91	RM	

SUBDIVISION PL
HILTON
IN LEXINGTON CO., NEAR
Plat Book 2

Page 150

EXHIBIT 3

2793

STATE OF SOUTH CAROLINA)
) RESTRICTIONS
COUNTY OF LEXINGTON)
HILTON PLACE SUBDIVISION

It is hereby declared that the Covenants, Conditions and Restrictions hereinbelow set out are hereby imposed upon all lots hereinafter designated.

1. No lot referred to herein shall be sub-divided, and its size, shape or dimensions shall be changed in any way, except by and with the written consent and approval of the Grantors.

2. No lot or property conveyed hereunder shall be used for any other than private residential purposes of one family, except by and with written consent and approval of the Grantors.

3. No building, barn, outbuilding, fence, garage or structure of any kind or alterations or additions thereto shall be erected, placed or made on any lot hereby conveyed; no residence containing less than 1,200 square feet of living space shall be erected on any lot; and no basement or excavation of any kind shall be made thereon, unless and until the complete plans, specifications and the proposed design and location thereof on said lot have been submitted by the Grantee to the Grantors or to a committee designated and applied in writing by the Grantors and then only unless and until the Grantors, or their committee, have approved the same in writing by letter to the Grantee.

4. No noxious or offensive activity or other thing shall be had or done upon any lot hereby conveyed and nothing shall be had or done whereon which constitutes or becomes an annoyance or nuisance to the neighborhood. No hogs, goats, cows, horses or other such animals shall be allowed or kept on any lot hereby conveyed, except common domestic pets. Nothing shall be done or allowed and no condition or situation shall be permitted on any said lot which shall

FILED
Oct 12 12 PM '83
JAMES T. RISER
LEXINGTON COUNTY

For modification of Restrictions, relative to within; see Deed Bk 1883 page 162 (5/B)
For Modification of Restrictions relative to the within, see Deed Bk 789 Page 217 (3/14)
For Modification of Restrictions, relative to the within, see Deed Bk 880, Pg 33. (15-A)

confirmatory deed. see Bk 2087 Pg. 227

constitute, cause or become a nuisance or otherwise detract from the desirability of the neighborhood as a residential section.

5. No trailer, tent, shack or temporary structure shall be erected, kept, had or allowed at any time on any lot hereby conveyed. All rubbish, garbage and trash shall be kept in closed cans or other suitable containers, which shall be placed and kept behind the house, out of sight from the street as far as possible and the lot, property and premises shall be kept clean at all times. Each owner shall make arrangements for regular garbage pick-up service.

6. All sewage disposal shall be maintained by the Grantee in a manner satisfactory to and meeting the approval of the State Board of Health.

7. There shall be no lakefront fencing constructed on any lot.

8. An easement is reserved by the Grantors over the front and rear ten (10') feet of each lot and over the ten (10') feet of each side line of each lot for the purpose of utility installation right of way and the operation and maintenance thereof.

9. If the Grantee violates or attempts or indicates an intention to violate any of the obligations, agreements, terms, conditions, provisions, covenants or restrictions hereinabove mentioned or referred to, the Grantors or other owners of property described herein shall have the right to enjoin, restrain and prevent any and all such violation by any proper legal proceedings in law or equity or to recover damage or the dues from the Grantee for each such violation or do both.

10. Unless changed by the consent of the Grantors, their heirs and assigns, these covenants, conditions and restrictions shall be appurtenant to and run with the said premises and shall be binding on all parties and all persons claiming under them until the 31st day of October, 2008, at which time

said covenants shall be automatically extended for successive periods of ten (10) years unless changed by the Grantors, their heirs and assigns.

11. These covenants, conditions and restrictions are for the benefit of the Grantors who may change or modify the terms contained herein at any time.

12. The covenants, conditions and restrictions are hereby imposed upon all those lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60.

WITNESS this 11th day of October, 1983.

Witnesses:

CHARLES S. COLEMAN

E. L. STOUDENMIRE

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Personally appeared before me Theresa H. Fadness, who, being duly sworn, deposes and says that (s)he saw the within-named Charles S. Coleman and E. L. Stoudenmire sign, seal and as their act and deed deliver the within-written instrument for the uses and purposes therein mentioned, and that (s)he with Charles D. Davis witnessed the execution thereof.

SWORN to before me this
11th day of October, 1983.

Notary Public for South Carolina

EXHIBIT 4

04699

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

MODIFICATION OF RESTRICTIONS
HILTON PLACE SUBDIVISION

WHEREAS, by instrument dated October 11, 1983, and recorded in the RMC Office for Lexington County in Deed Book 611 at page 232, the undersigned imposed certain restrictions upon all lots shown on a plat prepared by Johnny T. Johnson and Assoc., Inc., dated September 19, 1983, and recorded in Plat Book 194-G at page 60, Lot 3, Block A, being one of those lots, and

WHEREAS, Paragraph Eleven (11) of said restrictions reserves unto the undersigned the right to change or modify the terms of the restrictions, and

WHEREAS, Paragraph Eight (8) of said restrictions reserves easements for the installation and maintenance of utilities of ten (10.0') feet along the front, side and rear lot lines, and

WHEREAS, a plat prepared for Ralph R. Edmonds by Johnson, Knowles, Burgin and Bouknight, Inc., dated September 20, 1984, and recorded in the RMC Office for Lexington County in Plat Book 199-G at page 159 depicts a residence located seven and forty-five one-hundredths (7.45') feet from the eastern boundary line and therefor located within the easement reserve area.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Five and no/100 ($5.00) Dollars only, we, Charles S. Coleman and E. L. Stoudenmire, hereby modify said restrictions as follows:

As to Lot 3, Block A only, the reservation of easements along the eastern boundary of the property is changed from ten (10.0') feet to seven (7.0') feet.

WITNESS our Hands and Seals this 17th day of February, in the year of our Lord one thousand nine hundred eighty-six and in the two hundred and tenth year of the Sovereignty and Independence of the United States of America.

Charles S. Coleman

E. L. Stoudenmire

Signed, Sealed and Delivered
in the presence of:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PERSONALLY appeared before me Theresa H. Fadness, and made oath that (s)he saw the within named Charles S. Coleman and E. L. Stoudenmire sign, seal and as their act and deed, deliver the within written Modification Of Restrictions for the uses and purposes therein mentioned, and that (s)he, with Charles D. Davis witnessed the execution thereof.

SWORN to before me this

17th day of February, 1986.

(L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 9-25-89

EXHIBIT 5

BOOK 880 PAGE 34 09177

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

FILED

1987 MAR 23 PM 2:41

JOANNE S. RIVERS
RMC
LEXINGTON COUNTY, S.C.

MODIFICATIONS OF RESTRICTIONS

The undersigned, being the developers of Hilton Place Subdivision, having filed Restrictions on said subdivision in Book 611, at Page 232 on October 12, 1983, in the Office of the R.M.C. for Lexington County, do hereby modify said Restrictions as they pertain to Lot 15 as purchased by Thomas N. and Deborah K. Effinger in that the storage building that has been purchased by the Effingers and presently situated on Lot 15 shall be excluded under paragraph 3 of the Restrictions and said storage building shall be allowed to remain of Lot 15, Block A, in its present position which is on the road front portion of the residence and only as long as Mr. and Mrs. Thomas N. Effinger own the said property. This Modification is granted solely to the owners of Lot 15 and only relates to the existing storage building on Lot 15.

This Modification is made in accordance with paragraph 11 of the Restrictions and is intended to be made part of the Restrictions but only as they apply to Lot 15 of Hilton Place Subdivision.

Witness this 3rd day of March, 1987.

Witness

Chas. S. Coleman

Witness

E. L. Stoudemire

BOOK 880 PAGE 34

40

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Personally appeared before me Vaniska C. Freeman who, being duly sworn, deposes and says that he/she saw the within named Chas. S. Coleman and E. L. Stoudemire sign, seal, and as their act and deed deliver the within written instrument for th uses and purposes therein mentioned, and that he/she with Everette L. Stoudemire, Jr. witnessed the execution thereof.

Vaniska C. Freeman

SWORN to before me this
2nd day of March, 1987

(L.S.)
Notary Public for South Carolina

My commission expires: Feb. 1, 1988

EXHIBIT 6

BK1883PG262

FILED

Jul 16 4 09 PM '91

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

MODIFICATION OF RESTRICTIONS
HILTON PLACE SUBDIVISION

WHEREAS, by instrument dated October 11, 1983, and recorded in the Office of the RMC for Lexington County in Deed Book 611 at Page 232, the undersigned imposed certain restrictions upon all lots shown on a plat prepared by Johnny T. Johnson and Assoc., Inc., dated September 19, 1983, and recorded in Plat Book 194-G at Page 60, and revised and recorded in Plat Book 242 at Page 150, Lot 5, Block B, being one of those lots; and

WHEREAS, Paragraph Eleven (11) of said restrictions reserves unto the undersigned the right to change or modify the terms of the restrictions; and

WHEREAS, the subdivision plat recorded in Plat Book 242 at Page 150 shows a 45.0 foot setback line; and

WHEREAS, Paragraph Three (3) of said restrictions requires that the location of buildings must be approved by the Grantors in writing; and

WHEREAS, the building under construction on Lot 5, Block B, on said plat is located at the nearest point 31.1 feet from Killian Point Road;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Five ($5.00) Dollars only, we, Charles S. Coleman and E. L. Stoudenmire, hereby modify the said restrictions as follows:

As to Lot 5, Block B, only, the location of the residence as shown on a plat prepared for Charles S. Coleman by Lucius D. Cobb, Sr., Reg. Surveyor, dated June 26, 1991, is hereby approved.

20599

All other terms and conditions of said conditions and restrictions and setback line as shown on the subdivision plat shall remain unchanged.

WITNESS this 28 day of June, 1991.

Signed, Sealed and Delivered
in the presence of:

Ken Wardlaw

CHARLES S. COLEMAN

E. L. STOUDENMIRE

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PERSONALLY appeared before me Ken Wardlaw, and made oath that (s)he saw the within-named Charles S. Coleman and E. L. Stoudenmire sign, seal and as their act and deed, deliver the within-written Modification of Restrictions for the uses and purposes therein mentioned, and that (s)he, with Jake Coleman witnessed the execution thereof.

Ken Wardlaw

SWORN to before me this
28th day of June, 1991.

Notary Public for South Carolina
My Commission Expires: 3/8/98

EXHIBIT 7

Book/Page. 5089/221 (This is not an Offical Copy)

0006362 Bk: 5089 Pg: 0221

STATE OF SOUTH CAROLINA)
) CONFIRMATORY AMENDMENT TO
COUNTY OF LEXINGTON) RESTRICTIONS HILTON PLACE
SUBDIVISION (Reference Book 611 page 232)

WHEREAS, on or about October 11, 1983 Charles S. Coleman and E. L. Stoudenmire a/k/a Everette L. Stoudenmire executed those certain covenants, restrictions and restrictions entitled "RESTRICTIONS HILTON PLACE SUBDIVISION (hereinafter the "Restrictions"); and

WHERLAS, the Restrictions were thereafter recorded in the Lexington County RMC Office on or about October 12, 1983 in Book 611 Page 232; and

WHERLAS, paragraph 12 of the Restrictions intended to impose the Restrictions on the "lots" shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised and recorded in the Lexington County RMC in Plat Book 194-G at page 60; and

WHERLAS, the aforesaid Plat Book 194-G at page 60 also depicted certain other real property owned by Charles S. Coleman and E.L. Stoudenmire which other real property was not and is not a part of Hilton Place Subdivision and which other real property was not divided into "lots" at the time of the recording of the Restrictions; and

WHERLAS, Charles S. Coleman has since deceased and his wife Valiska F. Coleman has inherited his ownership of the subject property (see Deed of Distribution recorded in Book 2341 page 242); and

WHERLAS, E. L. Stoudenmire has since deceased and the subject property was devised to Ernestine K. Stoudenmire and Everette L. Stoudenmire, Jr. as Co-Trustees of Trust B created U/W Everette L. Stoudenmire dated 3/7/88 (see 98ES3200-724); and

WHERLAS, Ernestine K. Stoudenmire and Everette L. Stoudenmire, Jr. as Co-Trustees of Trust B created U/W Everette L. Stoudenmire dated 3/7/88 (see 98ES3200-724) (as heirs and assigns of E.L. Stoudenmire) and Valiska F. Coleman (as heir and assign of Charles S. Coleman) are desirous of clarifying that the Restrictions were only to apply to the individually platted and numbered lots shown thereon (ie., Lots 1-16 Block "A"; Lots 1-9 Block "B"; Lots 1-6 Block "C", and Lots 1-2 Block "D") and not to any other property shown on the aforementioned plat and or owned by E.L. Stoudenmire (now Ernestine K. Stoudenmire and Everette L. Stoudenmire, Jr. as Co-Trustees of Trust B created U/W Everette L. Stoudenmire dated 3/7/88 (see 98ES3200-724) and Charles S. Coleman (now Valiska F. Coleman).

NOW, THEREFORE, for $5.00 and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged it is agreed as follows:

1. The aforementioned Restrictions (Book 611 Page 232) as heretofore modified are hereby amended to amend paragraph 12 to read as follows:

"Notwithstanding anything contained herein to the contrary, the covenants, conditions

FILED, RECORDED, INDEXED
02/05/1999 09:02:04AM
Rec Fees: 10.00 St Fee: 0.00
Co Fees: 0.00 Pages: 2
LEX. CO. REGISTER OF DEEDS
DEBRA H. GUNTER

79-37

Book/Page: 5089/222 (This is not an Official Copy)

and restrictions are hereby imposed only upon those individually platted and numbered lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc. dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at page 60 those lots being Lots 1-16 Block "A", Lots 1-9 Block "B", Lots 1-6 Block "C" and Lots 1-2 Block "D". Nothing contained herein shall be construed to impose any covenants, conditions or restrictions on any other property shown on the aforesaid plat."

2. All other provisions of the Restrictions, as previously modified, not in conflict with this amendment shall remain in full force and effect.

3. In the event this amendment conflicts with any other provisions of the Restrictions (as previously modified and/or amended) this amendment shall supercede and govern.

Dated this 4th day of February, 1999.

WITNESSETH:

Ernestine K. Stoudenmire (SEAL)
Ernestine K. Stoudenmire, as Co-Trustee of Trust "B" created U/W Everette L. Stoudenmire dated 3/7/88

E.L. Stoudenmire Jr. (SEAL)
E.L. Stoudenmire, Jr., as Co-Trustee of Trust "B" created U/W Everette L. Stoudenmire dated 3/7/88

Valiska F. Coleman (SEAL)
Valiska F. Coleman

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF RICHLAND)

Personally appear before me the undersigned witness who first being duly sworn deposes and says that s/he saw the within named Ernestine K. Stoudenmire, E. L. Stoudenmire, Jr. and Valiska F. Coleman sign, seal and as their act and deed deliver the within written Confirmatory Amendment To Restrictions Hilton Place Subdivision, and that s/he with the other witness witnessed the execution thereof.

Sworn to before me this 4th day of February, 1999.

Notary Public for S.C.
My Commission Expires 5-18-05

EXHIBIT 8

30.80
15.40

BK1583PG045

TITLE TO REAL ESTATE — FORM 14-B
COLUMBIA OFFICE SUPPLY CO., COLUMBIA, S. C.

State of South Carolina,
COUNTY OF LEXINGTON

LEXINGTON COUNTY DOCUMENTARY TAX
PAID $15.40
MARJORIE H. SHARPE
Treasurer

FILED
1990 MAY -7 PM 2:38
JEANNE B. TRIBBLE
RMC
LEXINGTON COUNTY, S.C.

Know All Men By These Presents, That we, Charles S. Coleman and E. L. Stoudenmire,

044584
STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION
DOCUMENTARY STAMP TAX
MAY-7'90
P.B. 10893
30.80

FOR PLAT, SEE PLAT BK ____ PAGE ____

in the State aforesaid for and in consideration of the sum of Fourteen Thousand and no/100 ($14,000.00) Dollars to us paid by Elizabeth S. Bell in the State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, by these presents do grant, bargain, sell and release unto the said

Elizabeth S. Bell, her Heirs and Assigns:

All that certain piece, parcel or lot of land, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown and designated as Lot No. Six (6), Block C, on a plat prepared for Charles Coleman by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60, and having the following boundaries and measurements as shown on said plat: On the North by S.C. Road S-32-1853 whereon it measures 120.22 feet; on the East by Lot No. 5, Block C, whereon it measures 238.66 feet; on the South by 47.55-acre tract whereon it measures 90.00 feet; and on the West by property now or formerly of W.E. and J.E. Lindler whereon it measures 251.14 feet.

This being a portion of the property conveyed to Charles S. Coleman and E. L. Stoudenmire by deed of Eber L. Riley dated October 15, 1963, and recorded in the Office of the RMC for Lexington County in Deed Book 12-N at Page 530.

This conveyance is made subject to all existing easements, restrictions, rights of way and/or encroachments, including restrictions recorded in the Office of the RMC for Lexington County in Deed Book 611 at Page 232.

TMS No. 001635-01-001. 12948

Grantee's mailing address: 519 Oak Hampton Rd
~~Hilton~~, S.C. 29063

49

Also conveyed herwith is an easement for the use and enjoyment by the lot owner and the lot owners immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be appurtenant to the land herin conveyed.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To Have and to Hold all and singular the premises before mentioned unto the said

Elizabeth S. Bell, her

Heirs and Assigns forever

And we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

Elizabeth S. Bell, her

Heirs and Assigns, against us and our Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our Hands and Seals this 26th day of April in the year of our Lord one thousand nine hundred and ninety and in the two hundred and fourteenth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the presence of

Theresa H. Tadlock

CHARLES S. COLEMAN (SEAL)

E. L. STOUDENMIRE (SEAL)

50

STATE OF SOUTH CAROLINA,
RICHLAND County

Personally appeared before me Theresa H. Fadness and made oath that she saw the within named Charles S. Coleman and E. L. Stoudenmire sign, seal and as their act and deed, deliver the within written Deed for the uses and purposes therein mentioned, and that he, with Charles D. Davis witnessed the execution thereof.

SWORN to before me this 26th day of April 19 90

(L. S.)
Notary Public of S. C.

Theresa H. Fadness

My Commission expires: 9-21-99

EXHIBIT 9

41.50
90

BK2143PG276

TITLE TO REAL ESTATE — Form 140
COLUMBIA OFFICE SUPPLY CO., COLUMBIA, S. C.

State of South Carolina,

COUNTY OF LEXINGTON

KNOW ALL MEN BY THESE PRESENTS, That we, Stephen A. Wylie & Julie F. Wylie

in the State aforesaid, for and in consideration of the sum of Nineteen Thousand and 00/100 ($19,000.00) Dollars to us paid by Kenneth W. Kelly and Anita B. Kelly in the State aforesaid

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said KENNETH W. KELLY AND ANITA B. KELLY, THEIR HEIRS AND ASSIGNS:

That parcel or lot of land situate, lying and being near the Town of Hilton, in subdivision known as Hilton Place, Lexington County, South Carolina and shown and designated as Lot #4, Block "B" and Lot(4-B) on plat of Hilton Place by Johnny T. Johnson and Associates, Inc., September 19, 1983, revised December 1982, recorded in office of RMC, Plat Book 190-G Page 60 and shown on plat prepared for grantors, recorded Plat Book 238 Page 506.
DERIVATION: Deed from Paula P. Harris & Frank J. Harris to Stephen A. Wylie and Julie F. Wylie, recorded book 1574 Page 324, May 1, 1990.
TMS: 1635 2 8
GRANTEE ADDRESS: 235 Casa Lane, Chapin, SC 29036

This deed is subject to restrictions recorded Book 611 Page 232.

LEXINGTON COUNTY DOCUMENTARY TAX PAID $ 10.90 — Register

STATE OF SOUTH CAROLINA — SOUTH CAROLINA TAX COMMISSION — DOCUMENTARY STAMP TAX — MAY-1992 — $41.80

FILED
MAY 6 11 38 AM '92
JOANNE B. TRIPLETT
RMC
LEXINGTON COUNTY

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To Have and to Hold all and singular the premises before mentioned unto the said Kenneth W. Kelly and Anita B. Kelly, their Heirs and Assigns forever.

And we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Kenneth W. Kelly and Anita B. Kelly, their Heirs and Assigns, against ourselves and our Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our *Hands and Seals* this 29th day of April in the year of our Lord one thousand nine hundred and ninety-two and in the two hundred and sixteenth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Julie F. Wylie (SEAL)

Stephen A. Wylie by Julie F. Wylie (SEAL)
Attorney in fact

18345

53

BK2143PG277

STATE OF SOUTH CAROLINA,
LEXINGTON County.

PERSONALLY appeared before me Doris D. Ashley and made oath that S he saw the within-named Stephen A. Wylie & Julie F. Wylie sign, seal and, as their act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that he, with Michael O. W. Edens, P.C. witnessed the execution thereof.

SWORN to before me this 29th day of April, 19 92.

Notary Public of S. C. (L.S.) Doris D. Ashley

MCE: 10-20-93

STATE OF SOUTH CAROLINA,
County.

RENUNCIATION OF DOWER

I, , do hereby certify unto all whom it may concern, that Mrs. the wife of the within-named

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this day of , 19 .

Notary Public of S. C. (L. S.)

State of South Carolina
County of LEXINGTON

STEPHEN A. WYLIE & JULIE F. WYLIE
TO
KENNETH W. KELLY &
ANITA B. KELLY

TITLE OF REAL ESTATE

I hereby certify that the within Deed was filed for record in my office at 11:36 A.M. o'clock on the 6 day of May, 19 92, and was immediately entered upon the proper books and duly recorded in Book 2143 at Page 277

Lexington County, S.C.

I hereby certify that the within Deed has been duly executed and delivered, and the Grantee(s) did accept same as a conveyance to him/her/them/it.

Witness my hand and seal this 6 day of May, A.D. 19 92.

Witness

Recorded

54

EXHIBIT 10

Instrument: 1997040192 Book/Page: R 4340 : 276.1 DateTime: 09/24/1997 09:05:00.000 Document: 01

BK4340PG277

457.00
1936

FILED
Sep 24 9 05 AM '97
DEBRA M. GUNTER
RMC
LEXINGTON COUNTY

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF LEXINGTON)

KNOW ALL MEN BY THESE PRESENTS, that DAN M. RANDALL AND JENNIFER P. RANDALL ("Grantors"), in the State aforesaid, for and in consideration of the sum of One Hundred Seventy-six Thousand and 00/100 Dollars ($176,000.00) to them in hand paid at and before the sealing of these Presents by MARK S. CAMPITELLA AND CHRISSIE E. CAMPITELLA ("Grantees"), the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and conveyed, and by these Presents do grant, bargain, sell, release and convey unto

MARK S. CAMPITELLA AND CHRISSIE E. CAMPITELLA, THEIR SUCCESSORS, HEIRS AND ASSIGNS FOREVER,

THE FOLLOWING DESCRIBED PROPERTY:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION WHICH IS INCORPORATED HEREIN BY REFERENCE.

DOCUMENTARY TAX
STATE 457.60
SEP 24 1997
COUNTY 193.60

TMS: 1635-02-004 AND 1635-01-17

GRANTEES' ADDRESS: 117 Killian Point Circle
Chapin, SC 29036

This conveyance is subject to all easements, restrictions and conditions appearing of record affecting the above-described property.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the Grantees, their Heirs, Successors and Assigns forever.

And the Grantors do hereby bind themselves and their successors, heirs and assigns to warrant and forever defend all and singular the said premises unto the Grantees, their Heirs, Successors and Assigns against themselves and their heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

40192

Debra M. Gunter

Lexington County Register of Deeds

Instrument: 1997040192 Book/Page: R 4340 : 276 2 DateTime: 09/24/1997 09:05:00:000 Document: 01

Debra M.Gunter

Lexington County Register of Deeds

BK4340PG278

IN WITNESS WHEREOF, Grantors have caused these presents to be executed this 18th day of September, in the year of our Lord One Thousand Nine Hundred and Ninety-Seven and in the Two Hundred Twenty-second year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

WITNESS

Dan M. Randall

WITNESS

Jennifer P. Randall

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF RICHLAND)

PERSONALLY APPEARED before me the undersigned witness who, being duly sworn, deposes and says that s/he saw the within-named Grantors sign, seal and, as their act and deed, deliver the within Title to Real Estate, and that s/he with the other witness witnessed the execution thereof.

SWORN to before me this
18th day of September, 1997.

Notary Public for South Carolina
My Commission Expires: 11-30-98

Instrument: 1997040192 Book/Page R 4340 : 276.3 DateTime 09/24/1997 09:05:00:000 Document: 01

BK4340PG279

EXHIBIT A

All those certain pieces, parcels or lots of land, with the improvements thereon, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown and designated as Lot No. Two (2), Block B, and Lot No. Two-B (2-B) on a plat prepared for Charles S. Coleman by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60, and having such boundaries and measurements as shown on said plat; and being further shown and designated on plats prepared for Mark S. Campitelle and Chrissie E. Campitelle by Cox and Dinkins, Inc., dated September 16, 1997 and recorded in the Office of the RMC for Lexington County in Plat Book 281 at Page 485 and Plat Book 281 at Page 486 Reference being made to said plats which are incorporated herein by reference for a more accurate and complete description; all measurements being a little more or less.

This being the same property conveyed to the Grantor by Deed of Charles S. Coleman and E. L. Stoudemire dated July 1, 1985 and recorded in the Office of the RMC for Lexington County in Deed Book 738 at Page 220.

TMS: 1635-02-004 and 1635-01-17

Debra M Gunter

Lexington County Register of Deeds

EXHIBIT 11

Book/Page: R 5608/13 (This is not an Offical Copy)

2000001617 FILED, RECORDED, INDEXED
01/12/2000 11:38:11:538
Rec Fee:$10.00 St Fee:$0.00

2000001642 FILED, RECORDED, INDEXED
01/12/2000 11:38:52:818
Rec Fee:$10.00 St Fee:$0.00
Co Fee:$0.00 Pages:2
Lexington County, SC Debra H. Gunter
DEED Bk:Pg 5608:13

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

DEED TO REAL ESTATE

KNOW ALL MEN BY THESE PRFSENTS, **JACKIE Q. BOWER** (hereinafter referred to as "Grantor"), for and in consideration of the sum of Five and No/100 Dollars ($5.00) to the Grantor in hand paid at and before the sealing of these presents, by **JACKIE BOWER LINDER** (hereinafter referred to as "Grantee") in the State and County aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the Grantee, his Heirs, Successors and Assigns:

All that certain piece, parcel or lot of land, together with the improvements thereon, situate, lying and being near the town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown and designated as Lot No. Ten (10), Block A, and Lot No. Ten-A (10A) on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc., dated September 19, 1983, later revised and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at page 60, Lot 10, Block A is more fully shown on a survey prepared for Michael R. Satterfield and Kathryn A. Satterfield by Cox and Dinkins, Inc., dated September 29, 1989, recorded in Plat Book 234 at page 616 having such boundaries and measurements as shown on said latter plat reference to which is hereby craved for a more complete and accurate description.

Derivation: This being the same property conveyed to Jackie Q. Bower by deed of Michael R. Satterfield and Kathryn A. Satterfield as recorded in the Office of the RMC for Richland County in Deed Book 5166 at page 140.

TMS # 1635-3-11

Grantee's Address: 105 Big Thursday Court
Chapin, SC 29036

This conveyance is made subject to easements and restrictions of record and otherwise affecting the property.

2011016819 FILED, RECORDED, INDEXED
2011-04-25 16:27:24:927
REC FEE: $10.00 ST FEE: $78.00
CO FEE: $33.00 Pages: 2
Lexington County R.O.D. Debra M. Gunter
DEED Bk:Pg 14834:178

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that, **F. KENNETH MATHIS** ["Grantor"], in the State aforesaid, for and in consideration of the sum of **THIRTY THOUSAND AND 00/100 ($30,000.00) DOLLARS**, to the Grantor in hand paid at and before the sealing of these presents, by **STEPHEN F. LINDER, SR. AND JACKIE BOWER LINDER** ["Grantee"], in the State aforesaid, (the receipt of which is hereby acknowledged) has granted, bargained, sold, and released, and by these Presents does grant, bargain, sell, and release, subject to the easements, restrictions, reservations and conditions ("Exceptions") of record unto:

STEPHEN F. LINDER, SR. AND JACKIE BOWER LINDER
their heirs and assigns:

All that certain piece, parcel or lot of land, together with any improvements thereon, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, in the County of Lexington, State of South Carolina, being shown and designated as Lot 9, Block A and Lot 9-A, on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc., dated September 19, 1983, later revised and recorded in Plat Book 194-G at Page 60; said lot being more particularly shown and delineated on a plat prepared for Stephen F. Linder and Jackie Bower Linder by Cox and Dinkins, dated April 14, 2011 and recorded in Record Book _____ at Page _____, in the Office of the Register of Deeds for Lexington County; having such boundaries and measurments as shown on said latter plat reference to which is hereby craved for a more complete and accurate description.

TMS#: 001635-03-010 and 001635-01-023

This being the same property conveyed to F. Kenneth Mathis by deed of Mathis, Wilson and Stephens Associates, dated February 15, 2011 and recorded February 22, 2011 in Record Book 14738 at Page 76, Office of the Register of Deeds for Lexington County.

Grantees Address: **105 Big Thursday Court**
Chapin, SC 29036

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging or in anywise incident or appertaining.

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

And Grantor does hereby bind himself and his heirs, personal representatives and assigns to warrant and forever defend all and singular the said Premises unto Grantee, Grantee's heirs and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal this **21st** day of **April, 2011.**

Signed, Sealed and Delivered
in the Presence of:

F. Kenneth Mathis

STATE OF SOUTH CAROLINA, **RICHLAND** **County ss:**

I, **Mark D. Bower** do hereby certify that

F. Kenneth Mathis

personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this **21st** day of **April, 2011.**

Notary Public for South Carolina

My Commission Expires: **04/19/2020**

Doc ID/Page: R 5608/14 (This is not an Official Copy)

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in any way incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, his heir, Successors and Assigns forever.

And the Grantor does hereby bind themselves and their heirs, successors and assigns, to warrant and forever defend all and singular the premises unto the Grantee, his heirs, successors and assigns against themselves and their heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

Any references in 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 Grantees.

WITNESS their Hand and Seal this 30th day of December, in the year of our Lord one thousand nine hundred and ninety-nine and in the two-hundredth and twenty third year of the Sovereignty and independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Witness #1

Jackie Q. Bower

Witness #2

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named Grantor sign, seal and as his/her/its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he, with the other witnesses subscribed above, witnessed the execution thereof.

Witness #1

SWORN to before me this
30th day of December, 1999.

(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 2-23-2005

EXHIBIT 12

Book/Page # 10537:37 This is not an Official Copy

2005056246 FILED, RECORDED, INDEXED
10/12/2005 10:57:06:483
Rec Fee:$10.00 St Fee:$650.00
Co Fee:$275.00 Pages:2
Lexington County ROD Debra M. Gunter
DEED Bk:Pg 10537:37

Deed Prepared by: **Law Office of Smokey Brown, PC**
P.O. Box 1545
Irmo, SC 29063

STATE OF SOUTH CAROLINA)
) GENERAL WARRANTY DEED
COUNTY OF LEXINGTON)

KNOW ALL MEN BY THESE PRESENTS that Linda L. Leventhal n/k/a Linda L. Johnson (GRANTORS), for and in consideration of the sum of Two Hundred Fifty Thousand Dollars and 00/100 ($250,000.00), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Henry D. Gehlken, Sr. & Vivian S. Gehlken (GRANTEES), as joint tenants with rights of survivorship, and not as tenants in common, their heirs and assigns forever, all her fee simple interest in the following real property located in Lexington County, State of South Carolina:

All that certain piece, parcel, or lot of land, with the improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown as Lot 5, Block C on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc. dated September 19, 1983 later revised, and recorded in the Office of the ROD for Lexington County in Book 242 at page 150. Also, a non-exclusive access to the water of Lake Murray through the lake access as shown on said plat which shall run with the land. Said lot 5, Block C being further shown on plat prepared for Linda L. Leventhal by United Design Services, Inc. on June 21, 2000, and recorded in Plat Book 5864 at page 55, in the Office of the Register of Deeds for Lexington County; and having such shapes, courses, distances, metes and bounds as shown upon said latter plat, all measurements being a little more or less, to which reference is hereby craved as often as necessary for a more complete and accurate description.

This being the same property conveyed to Linda L. Leventhal (n/k/a Linda L. Johnson) by deed of Michael O. Taylor and Kimberly A. Taylor dated June 30, 2000 and recorded July 6, 2000 in the Office of the Register of Deeds for Lexington County in Record Book 5864 at page 53.

TMS#: 001635-01-002

This conveyance is made subject to conditions, easements, covenants, restrictions, plats and zoning regulations of record, and those that an inspection of the property would disclose.

Grantees' Address: 217 Killian Point Road, Chapin, SC 29036

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

Book/Page: 4:1053/708 (This is not an Official Copy)

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs and assigns forever.

AND THE GRANTOR does hereby bind Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this October 11, 2005.

Signed, Sealed and Delivered
in the Presence of:

Linda L. Leventhal n/k/a Linda L. Johnson

STATE OF SOUTH CAROLINA
COUNTY OF Lexington

Personally appeared before me the undersigned and made oath that s/he saw the within-named Grantor sign, seal and as her act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this
11th day of October, 2005.

Notary Public for the State of South Carolina
My Commission Expires: 6/25/2013

EXHIBIT 13

2010024824 FILED, RECORDED, INDEXED
2010-06-17 11:55:06:390
REC FEE: $10.00 ST FEE: $1.30 Exempt
CO FEE: $0.55 Exempt Pages: 3
Lexington County R.O.D. Debra M. Gunter
DEED Bk:Pg 14296:261

(Space above this line for Recorder's Use)

STATE OF SOUTH CAROLINA) **TITLE TO REAL ESTATE**
)**NO TITLE SEARCH PERFORMED BY KNEECE,**
COUNTY OF LEXINGTON) **KNEECE & BROWN - DEED PREPARATION ONLY**

KNOW ALL MEN BY THESE PRESENTS, That, I, Z. H. McDaniel, III, in the State aforesaid, for and in consideration of the sum of Five and no/100 ($5.00) Dollars, and love and affection, to me paid by Kathryn Ann McDaniel, in the State aforesaid, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, by these presents do grant, bargain, sell and release unto the said:

KATHRYN ANN McDANIEL, HER HEIRS AND ASSIGNS:

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown and designated as Lots 7 and 8, Block "A" on a plat for Charles Coleman (also known as Hilton Place) by Johnny T. Johnson & Associates, Inc., dated September 19, 1983 (revised December, 1983) and recorded in the Office of the RMC for Lexington County in Plat Book 194-G, Page 60. Reference is also made to the above mentioned plat revised February 21, 1991, and recorded in Plat Book No. 242 at Page 150. Being further shown on a plat prepared for Z. H. McDaniel, III by Cox and Dinkins, Inc., dated August 22, 1996, to be recorded; reference being made to said plat which is incorporated herein by reference for a more complete and accurate description; be all measures a little more or less.

This being the same property conveyed to Z. H. McDaniel, III by deed of John L. Yost, Jr., and Kathryn C. Yost dated August 30, 1996, and recorded in the Office of the ROD for Lexington County on September 4, 1996 in Book 3864, page 223.

TMS # 001635-03-008; 001635-01-031; 001635-01-032

Grantees's address: 112 Killian Point Circle, Chapin, SC 29036

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

THIS CONVEYANCE is made subject to easements, conditions and restrictions of record, including matters appearing on plats of record.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs and assigns forever.

AND GRANTOR does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs and assigns, against itself and its successors and assigns lawfully claiming or to claim, the same or any part thereof.

Any reference in 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 Grantees.

WITNESS my Hand and Seal this 16th day of June, in the year of our Lord two thousand and ten (2010) and in the two hundred and thirty-third (233rd) year of the Sovereignty and Independence of the United States of America.

Signed, Sealed, and Delivered
in the Presence of:

First witness

Z. H. McDaniel, III

Second witness/notary

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named, Z. H. McDaniel, III, sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he with the other witness witnessed the execution thereof.

First witness signs here

SWORN to before me this
16th day of June, 2010.

Notary Public for South Carolina
My Commission Expires: 3-3-19

EXHIBIT 14

2011016819 FILED, RECORDED, INDEXED
2011-04-25 16:27:24:927
REC FEE: $10.00 ST FEE: $78.00
CO FEE: $33.00 Pages: 2
Lexington County R.O.D. Debra M. Gunter
DEED Bk:Pg 14834:170

STATE OF SOUTH CAROLINA)
)
COUNTY OF **LEXINGTON**)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that, **F. KENNETH MATHIS** ["Grantor"], in the State aforesaid, for and in consideration of the sum of **THIRTY THOUSAND AND 00/100 ($30,000.00) DOLLARS,** to the Grantor in hand paid at and before the sealing of these presents, by **STEPHEN F. LINDER, SR. AND JACKIE BOWER LINDER** ["Grantee"], in the State aforesaid, (the receipt of which is hereby acknowledged) has granted, bargained, sold, and released, and by these Presents does grant, bargain, sell, and release, subject to the easements, restrictions, reservations and conditions ("Exceptions") of record unto:

STEPHEN F. LINDER, SR. AND JACKIE BOWER LINDER
their heirs and assigns:

All that certain piece, parcel or lot of land, together with any improvements thereon, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, in the County of Lexington, State of South Carolina, being shown and designated as Lot 9, Block A and Lot 9-A, on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc., dated September 19, 1983, later revised and recorded in Plat Book 194-G at Page 60; said lot being more particularly shown and delineated on a plat prepared for Stephen F. Linder and Jackie Bower Linder by Cox and Dinkins, dated April 14, 2011 and recorded in Record Book _____ at Page _____, in the Office of the Register of Deeds for Lexington County; having such boundaries and measurments as shown on said latter plat reference to which is hereby craved for a more complete and accurate description.

TMS#: 001635-03-010 and 001635-01-023

This being the same property conveyed to F. Kenneth Mathis by deed of Mathis, Wilson and Stephens Associates, dated February 15, 2011 and recorded February 22, 2011 in Record Book 14738 at Page 76, Office of the Register of Deeds for Lexington County.

Grantees Address: **105 Big Thursday Court**
Chapin, SC 29036

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging or in anywise incident or appertaining.

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

And Grantor does hereby bind himself and his heirs, personal representatives and assigns to warrant and forever defend all and singular the said Premises unto Grantee, Grantee's heirs and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal this **21st** day of **April, 2011.**

Signed, Sealed and Delivered
in the Presence of:

F. Kenneth Mathis

STATE OF SOUTH CAROLINA, **RICHLAND** **County ss:**

I, **Mark D. Bower** do hereby certify that

F. Kenneth Mathis

personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this **21st** day of **April, 2011.**

Notary Public for South Carolina

My Commission Expires: **04/19/2020**

Book/Page: R 5608/14 (This is not an Offical Copy)

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in any way incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, his heir, Successors and Assigns forever.

And the Grantor does hereby bind themselves and their heirs, successors and assigns, to warrant and forever defend all and singular the premises unto the Grantee, his heirs, successors and assigns against themselves and their heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

Any references in 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 Grantees.

WITNESS their Hand and Seal this 30th day of December, in the year of our Lord one thousand nine hundred and ninety-nine and in the two-hundredth and twenty third year of the Sovereignty and independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Witness #1 — Jackie Q. Bower

Witness #2

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF LEXINGTON)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named Grantor sign, seal and as his/her/its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he, with the other witnesses subscribed above, witnessed the execution thereof.

Witness #1

SWORN to before me this
30th day of December, 1999.

(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 2-23-2005

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	IN THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON)	
Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gelhlken, Kenneth W. Kelly and Anita B. Kelly, Stephen F. Lindler, Sr. and Jackie Bower Lindler, and Kathryn A. McDaniel,)	Civil Action No. 2011-CP-32-2968
Plaintiffs,)	
v.)	**ANSWER OF DEFENDANTS STOUDENMIRE** (Jury Trial Requested)
Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, and George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire, and Laura Brittany Stoudenmire, and Trust "B" Created by U/W Everett L. Stoudenmire And Valiska F. Coleman,)	
Defendants.)	

Defendants George Arthur Stoudenmire, and George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire and Trust "B" created by U/W Everett L. Stoudenmire ("Defendants"), hereby answers Plaintiff's Complaint as follows:

FIRST DEFENSE

1. Every allegation in the Complaint not specifically admitted or denied is denied.

2. Defendants admit the allegations in ¶¶ 1, 2, 3 and 4 of the Complaint.

3. Defendants admit on information and belief as much of the allegations of ¶ 5 as allege that no structure was on the Lake Access lot. Defendants deny that the public used the lot for lake access.

4. Defendants admit the allegations of ¶¶ 6, 7, 8, 9, 10, 11, 12, and 13 of the Complaint upon information and belief.

5. Defendants admit the allegations of ¶ 14 of the Complaint.

6. Defendants deny the allegations contained in ¶ 15 of the Complaint upon information and belief.

7. Answering ¶ 16 of the Complaint, Defendants restate ¶¶ 1–6 of this Answer.

8. Defendants deny the allegations of ¶ 17, 18, and 19 of the Complaint.

9. Answering Plaintiff's Prayer for Relief in ¶ 20 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

10. Answering the second ¶ 17 of the Complaint, Defendants restate ¶¶ 1–9 of this Answer.

11. Defendants admit the allegations of the second ¶ 18 of the Complaint.

12. Defendants deny the allegations and legal conclusions found in the second ¶ 19 of the Complaint.

13. Defendants admit upon information and belief the allegations of the second ¶ 20 of the Complaint.

14. Defendants admit the allegations of ¶ 21 of the Complaint to the extent they allege Plaintiffs Snow, Kelly, and Campitella did not sign the February 1999 Modifications of the Restrictions. Defendants are without information sufficient to form a belief as to the truth and accuracy of the remaining allegations of ¶ 21, which are denied.

15. Answering Plaintiff's Prayer for Relief in ¶ 22 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

16. Answering ¶ 23 of the Complaint, Defendants restate ¶¶ 1–15 of this Answer.

17. Defendants deny the allegations contained in ¶ 24 of the Complaint.

18. Defendants deny the allegations of ¶ 25 of the Complaint upon information and belief.

19. Answering Plaintiff's Prayer for Relief in ¶ 26 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

20. Answering the second ¶ 24 of the Complaint, Defendants restate ¶¶ 1–19 of this Answer.

21. Defendants deny the allegations of the second ¶ 25, the second ¶ 26, and ¶ 27, 28, 29, and 30 of the Complaint.

23. Answering Plaintiff's Prayer for Relief in ¶ 31 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

SECOND DEFENSE

24. Plaintiffs' claims are barred by waiver and for estoppel.

THIRD DEFENSE

25. Plaintiffs' claims are barred by the doctrines of laches.

FOURTH DEFENSE

26. Plaintiffs have abandoned any rights they may have had to the access parcel.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants prays that:

a. the Complaint be dismissed with costs assessed against the Plaintiff; and

b. for such other and further relief as the court deems just and proper.

****SIGNATURE PAGE FOLLOWS****

77

Respectfully submitted,

H. Clayton Walker, Jr.
WALKER ‖ REIBOLD
Post Office Box 61140
Columbia, South Carolina 29260
(803) 454-0955/tel
(803) 454-0956/fax

ATTORNEYS FOR DEFENDANTS
STOUDENMIRE

October 12, 2011

CERTIFICATE OF SERVICE
The undersigned hereby certifies that a true copy of the foregoing document has been served upon all counsel by mailing a copy properly addressed and with sufficient postage affixed thereto this 12 day of October, 2011

Walker & Reibold, Attorneys at Law

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	IN THE COURT OF COMMON PLEAS IN THE ELEVENTH JUDICIAL CIRCUIT
Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gelhlken, Kenneth W. Kelly and Anita B. Kelly, Stephen F. Lindler, Sr. and Jackie Bower Lindler, and Kathryn A. McDaniel, Plaintiffs, v. Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire, and Laura Brittany Stoudenmire, and Trust "B" Created by U/W Everett L. Stoudenmire And Valiska F. Coleman, Defendants.	Civil Action No. 2011-CP-32-2968 **ANSWER OF DEFENDANTS CHARLES S. COLEMAN, JR., J. THOMAS COLEMAN, JACOB C. COLEMAN, AND VALISKA C. FREEMAN** (Jury Trial Requested)

Defendants Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman and Valiska C. Freeman ("Defendants"), hereby answer Plaintiff's Complaint as follows:

FIRST DEFENSE

1. Every allegation in the Complaint not specifically admitted or denied is denied.

2. Defendants admit the allegations in ¶¶ 1, 2, 3 and 4 of the Complaint.

3. Defendants admit on information and belief as much of the allegations of ¶ 5 as allege that no structure was on the Lake Access lot. Defendants deny that the public used the lot for lake access.

4. Defendants admit the allegations of ¶¶ 6, 7, 8, 9, 10, 11, 12, and 13 of the Complaint upon information and belief.

5. Defendants admit the allegations of ¶ 14 of the Complaint.

6. Defendants deny the allegations contained in ¶ 15 of the Complaint upon information and belief.

7. Answering ¶ 16 of the Complaint, Defendants restate ¶¶ 1–6 of this Answer.

8. Defendants deny the allegations of ¶ 17, 18, and 19 of the Complaint.

9. Answering Plaintiff's Prayer for Relief in ¶ 20 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

10. Answering the second ¶ 17 of the Complaint, Defendants restate ¶¶ 1–9 of this Answer.

11. Defendants admit the allegations of the second ¶ 18 of the Complaint.

12. Defendants deny the allegations and legal conclusions found in the second ¶ 19 of the Complaint.

13. Defendants admit upon information and belief the allegations of the second ¶ 20 of the Complaint.

14. Defendants admit the allegations of ¶ 21 of the Complaint to the extent they allege Plaintiffs Snow, Kelly, and Campitella did not sign the February 1999 Modifications of the Restrictions. Defendants are without information sufficient to form a belief as to the truth and accuracy of the remaining allegations of ¶ 21, which are denied.

15. Answering Plaintiff's Prayer for Relief in ¶ 22 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

16. Answering ¶ 23 of the Complaint, Defendants restate ¶¶ 1–15 of this Answer.

17. Defendants deny the allegations contained in ¶ 24 of the Complaint.

18. Defendants deny the allegations of ¶ 25 of the Complaint upon information and belief.

19. Answering Plaintiff's Prayer for Relief in ¶ 26 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

20. Answering the second ¶ 24 of the Complaint, Defendants restate ¶¶ 1–19 of this Answer.

21. Defendants deny the allegations of the second ¶ 25, the second ¶ 26, and ¶ 27, 28, 29, and 30 of the Complaint.

23. Answering Plaintiff's Prayer for Relief in ¶ 31 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

SECOND DEFENSE

24. Plaintiffs' claims are barred by waiver and for estoppel.

THIRD DEFENSE

25. Plaintiffs' claims are barred by the doctrines of laches.

FOURTH DEFENSE

26. Plaintiffs have abandoned any rights they may have had to the access parcel.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants prays that:

a. the Complaint be dismissed with costs assessed against the Plaintiff; and

b. for such other and further relief as the court deems just and proper.

****SIGNATURE PAGE FOLLOWS****

Respectfully submitted,

H. Clayton Walker, Jr.
WALKER ‖ REIBOLD
Post Office Box 61140
Columbia, South Carolina 29260
(803) 454-0955/tel
(803) 454-0956/fax

ATTORNEYS FOR DEFENDANTS
CHARLES S. COLEMAN, JR., J.
THOMAS COLEMAN, JACOB C.
COLEMAN AND VALISKA C.
FREEMAN

October 12, 2011

CERTIFICATE OF SERVICE
The undersigned hereby certifies that a true copy of the foregoing document has been served upon all Counsel by mailing a copy properly addressed and with sufficient postage affixed thereto this 12 day of October, 2011

Walker & Reibold, Attorneys at Law

COPY

STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	IN THE COURT OF COMMON PLEAS IN THE ELEVENTH JUDICIAL CIRCUIT
Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gelhlken, Kenneth W. Kelly and Anita B. Kelly, Stephen F. Lindler, Sr. and Jackie Bower Lindler, and Kathryn A. McDaniel, Plaintiffs, v. Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire, and Laura Brittany Stoudenmire, and Trust "B" Created by U/W Everett L. Stoudenmire And Valiska F. Coleman, Defendants.	Civil Action No. 2011-CP-32-2968 **ANSWER OF DEFENDANTS SMITH AND BELL** (Jury Trial Requested)

FILED
2011 OCT 14 A 11:38
BERTHA CARRIGG
CLERK OF COURT
LEXINGTON, SC
PPB

Defendants Judson P. Smith and Christy Brabham Bell hereby answers Plaintiff's Complaint as follows:

FIRST DEFENSE

1. Every allegation in the Complaint not specifically admitted or denied is denied.

2. Defendants admit the allegations in ¶¶ 1 and 2 of the Complaint.

3. Defendants admit the allegations of ¶¶ 3 and 4 of the complaint upon information and belief.

4. Defendants admit on information and belief as much of the allegations of ¶ 5 as allege that no structure was on the Lake Access lot. Defendants deny upon information and belief that the public used the lot for lake access.

5. Defendants admit the allegations of ¶¶ 6, 7, 8, 9, 10, 11, and 12 of the Complaint upon information and belief.

6. Defendants are without knowledge of the allegations contained in ¶ 13 of the Complaint and deny same.

7. Defendants admit the allegations of ¶ 14 of the Complaint.

8. Defendants deny the allegations contained in ¶ 15 of the Complaint.

9. Answering ¶ 16 of the Complaint, Defendants restate ¶¶ 1–8 of this Answer.

10. Defendants deny the allegations in ¶ 17, 18, and 19 of the Complaint.

11. Answering Plaintiff's Prayer for Relief in ¶ 20 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

12. Answering the second ¶ 17 of the Complaint, Defendants restate ¶¶ 1–11 of this Answer.

13 Defendants admit the allegations of the second ¶ 18 of the Complaint.

14. Defendants deny the allegations and legal conclusions found in the second ¶ 19 of the Complaint.

15. Defendants admit upon information and belief the allegations of the second ¶ 20 of the Complaint.

16. Defendants admit the allegations of ¶ 21 of the Complaint to the extent they allege Plaintiffs Snow, Kelly, and Campitella did not sign the February 1999 Modifications of the

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Restrictions. Defendants are without information sufficient to form a belief as to the truth and accuracy of the remaining allegations of ¶ 21, which are denied.

17. Answering Plaintiff's Prayer for Relief in ¶ 22 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

18. Answering ¶ 23 of the Complaint, Defendants restate ¶¶ 1–17 of this Answer.

19. Defendants deny the allegations contained in ¶¶ 24 and 25 of the Complaint.

20. Answering Plaintiff's Prayer for Relief in ¶ 26 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

21. Answering the second ¶ 24 of the Complaint, Defendants restate ¶¶ 1–20 of this Answer.

22. Defendants are without knowledge of the allegations contained in the second ¶ 25 of the Complaint and deny same.

23. Defendants deny the allegations of the second ¶ 26 of the Complaint.

24. Defendants are without knowledge of the allegations contained in ¶¶ 27, 28, 29 and 30 of the Complaint and deny same.

25. Answering Plaintiff's Prayer for Relief in ¶ 31 of the Complaint, Defendants deny that Plaintiffs are entitled to relief of any kind.

SECOND DEFENSE

26. Plaintiffs' claims are barred by waiver and for estoppel.

THIRD DEFENSE

27. Plaintiffs' claims are barred by the doctrines of laches.

FOURTH DEFENSE

28. Plaintiffs have abandoned any rights they may have had to the access parcel.

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WHEREFORE, having fully answered Plaintiff's Complaint, Defendants prays that:

a. the Complaint be dismissed with costs assessed against the Plaintiff; and

b. for such other and further relief as the court deems just and proper.

Respectfully submitted,

H. Clayton Walker, Jr.
WALKER | REIBOLD
Post Office Box 61140
Columbia, South Carolina 29260
(803) 454-0955/tel
(803) 454-0956/fax

ATTORNEYS FOR DEFENDANTS JUDSON P. SMITH AND CHRISTY BRABHAM BELL

October 11, 2011

CERTIFICATE OF SERVICE
The undersigned hereby certifies that a true copy of the foregoing document has been served upon all Counsel by mailing a copy properly addressed and with sufficient postage affixed thereto this 12 day of October, 2011
Carrie Mullen
Walker & Reibold, Attorneys at Law

PPB
FILED
2011 OCT 14 A 11:38
BETH A. CAHRIGG
CLERK OF COURT
LEXINGTON, SC

86

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF LEXINGTON) C/A #: 2011-CP-32-2968

Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gehlken, Kenneth W. Kelly and Anita B. Kelly, Stephen F. Linder, Sr. and Jackie Bower Lindler, and Kathryn A. McDaniel,

Plaintiffs,

v.

Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire, and Laura Brittany Stoudenmire, and Trust "B" Created by U/W Everett L. Stoudenmire And Valiska F. Coleman,

Defendants.

COPY

HEARING

****

Tuesday, July 30, 2013
9:00 a.m. - 4:14 p.m.

The hearing before the Honorable James O. Spence was taken at the Lexington County Judicial Center, 205 E. Main Street, Lexington, South Carolina on the 30th day of July, 2013 before Nadine A. Garrett, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES

Thomas B. Smith, Esquire
Smith Law Office, Inc.
2557 Ashley Phosphate Road
North Charleston, South Carolina 29418
Attorney for the Plaintiffs

H. Clayton Walker, Jr., Esquire
Walker & Reibold, LLC
3321 Forest Drive, Suite One
Columbia, South Carolina 29204
Attorney for the Defendants

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STIPULATIONS

It is stipulated and agreed that this trial is being taken pursuant to the South Carolina Rules of Civil Procedure.

THE COURT: Good morning everyone. We're here on Snow v. Smith. It's 2011-CP-32-2968. Pursuant to January 29, 2013 order of the reference by Judge McMahon. This is an easement case. A couple of matters that we're going to go over before we begin is, I'll alert everybody to the water pitchers. The water pitchers are a hazard. If you attempt to pour water in your cup like this, all the ice will come in and you will spill water all over your exhibits and your briefs and things like that. So, do it like, you know, the folks do at a restaurant, go from the side. The second thing is, we have a court reporter who is transcribing this. So to the extent possible, if everyone will speak one at a time. If attorneys making an objection, I'll signal who I want to listen to first and then I'll listen to the other attorney. But remember the court reporter can only take down one person at a time. Everybody's going to have an opportunity to have their say. If you need to take a break or need to confer with your attorney, tell your attorney and we'll take a break. Otherwise, we're going to start and we're going to proceed

with dispatch until we have this finished today. At the end of the trial, unless things are so crystal clear that they are no issues that anyone in the world would ever think there was, I will ask Madam Court Reporter to send the original transcript to me, so that I can see that it is filed properly with the clerk's office. And then send a letter, with an accompanying letter to me, copying the two attorneys. The two attorneys then have 28 days from that date to submit the memo. And we will talk about the issues as I hear more about the trial. So that's just the general procedure. Again, if you need a bathroom break or you decide you want to eat lunch, we will break for lunch if asked, otherwise we'll go forward, otherwise we'll move forward. I'll ask each attorney to identify themselves for the record, who they're representing and give just a brief opening. When witnesses are asked to come forward, if you'll come forward here to my right in front of Mr. Young, he will administer the oath and then if you'll just tell your name to the court reporter. Yes, sir?

MR. SMITH: May it please the court?

THE COURT: Absolutely.

MR. SMITH: My name is Tommy Smith. I'm an attorney out of North Charleston, South Carolina. I represent the Plaintiffs today. I have several Plaintiffs with me. Elizabeth Snow is seated next to me. Mark Campitella and Chrissie Campitella are here. Henry Gehlken and Vivian Gehlken. Ken Kelly, Anita Kelly, Steve Linder, Jackie Bower Linder, and Kathryn McDaniel. All these are residents of Hilton Place Subdivision. Would you like the short opening now?

THE COURT: Yes, sir.

OPENING SUMMARY ON BEHALF OF THE PLAINTIFFS:

MR. SMITH: May it please the Court? This case is about Hilton Place subdivision. It is a platted subdivision in Lexington County. And in particular, we're about the Lake Access Lot. You'll see the Lake Access Lot is a platted lot on the plat itself. And in 1983 there were covenants, which you'll see. The covenants have restrictions. The restrictions, things like buildings and barns and things like that, various things. Until the Lake Access Lot was sold by the developers or the developers heirs

in 2010, the Lake Access Lot had pretty much remained unimproved. There was one deck there, a wooden deck, it was next to the lake. But otherwise, the Plaintiffs and the homeowners understood they had unfettered access to the entire lot for picnics and picking blueberries and fishing and swimming, etc. We're here today because in 2010, the developers sold the last residential lot in 2008 to Mr. Judson Smith. And they sold the lake access in 2010 to Mr. Judson Smith. We're here today because since the sale in 2010, several things have been erected on the Lake Access Lot, including an outhouse, gazebo, various other things. And we're here because the Defendants, Judson Smith and Christy Bell in particular, indicate that they believe lake access is for ingress and egress only to the lake. And they oppose anyone else using anything on the land or throwing any parties or using the gazebo, anything of that nature, which would become apparent. We're going to ask the Court for several things today and they're several options in our Complaint. But our main goal and what we'd like to see is that the Court

enforce the 1983 covenants and restrictions and place the lake access property back in status quo, remove those things and let's have it like it's suppose to be. And that's the main body of our case. We're going to expect a long trial today. We've got about 10 witnesses and we'll go from there.

THE COURT: All right. Thank you. Yes, sir.

OPENING SUMMARY BY ON BEHALF OF THE DEFENDANTS:

MR. WALKER: Good morning, Judge. My name is Clay Walker and I'm here on behalf of all of the Defendants. This property is on a plat and all we have written in the record about what it's for is written on the plat and it says access. And our position's pretty simple, access means access. The restrictions yield no information about the purpose for which that property is to be used. The restrictions, if you look at them, logically can apply to the Lake Access Lot. The restrictions talk about you can't build a house, but it's got to have a minimum size; that doesn't apply to this property. Your garbage can is suppose to be behind your house; can't put a house in this lot. It can't apply to this piece of property. Those

restrictions logically don't fit the access parcel. In recognition of that, in 1999 the restrictions were amended to clarify that they applied to numbered lots. And that's an exhibit everybody on the Plaintiffs' side wants to run away from. But in 1999 the restrictions were amended to say they apply solely to numbered lots. This is a lot that on the plat says lake access, not a numbered lot, the restrictions simply, logically don't apply and the restrictions were clarified to make it crystal clear they don't apply to this piece of property. So we have something that says access, we have no interest in or intent to deny anybody access to the lake, period. In trying to explain what happened here, I really want to compare Judson Smith and Christy Bell to the guy who did the Cockaboose thing. That was a dead-end piece of railroad that everybody thought was just a piece of junk and they turned into something special. And that's exactly what's happened here. This access lot had been ignored by everybody for decades. It was just sitting there. And nobody's really using it. It was overgrown. People were

dumping crap on it. It was a mess. And he took it. He's cleaned it up. He's made improvements to it. But he has no intention to interfere with anybody's access to the lake, pure and simply. And, you know, I'm a little mystified why everybody's upset, that what was essentially a junk lot, overgrown, has been cleaned up, made to look nice, well kept. And in terms of the access, much improved, because the roadway's clear, the ramp's larger. And if anything, access is easier and better. Something I need to clarify for the Court, Mr. Smith and Ms. Bell bought two lots. They bought the Lake Access Lot and they bought a second parcel that's basically underneath part of the lake. But also where the lake access parcel stops, their personal property, in which they have no interest, begins. And on that, what I call lot number two, is a dock, is a deck. What you were told by the Plaintiff was decking that was on the lake access parcel when it was purchased by Smith and Bell is incorrect. Because that decking was sitting on lot number two. So you really need to keep clear here that there are property lines, there

are two lots. And some of these improvements that people aren't happy about, they have no standing to complain, because they don't own it.

THE COURT: Thank you. Two things before we begin. One is, it is my understanding from a review of the file and from talking with both counsel before we began that all the deeds, plats, surveys, restrictions of record that have been recorded have been stipulated to, so we don't have to go through foundation and all that. Y'all stipulated to that. And I believe there were some deposition excerpts submitted. Any issue with that?

MR. WALKER: No, sir.

THE COURT: All right. Thank you. Final thing is, I'm typing up here. I'm not playing Pokemon or cards or anything like that. The issue came up one time. Anybody, my staff, secretaries can tell you I have the worst handwriting in the world, between spell check and my typing enables me to follow what was said, so that's what I'm doing. It doesn't -- if I stop typing, that doesn't mean a thing. If your guy's talking and I stop typing, I mean, don't

take anything at all from my tempo and stuff of typing. I just want to clarify that. Yes, sir. If you'll call your first witness.

MR. SMITH: May it please the Court.

THE COURT: Absolutely.

MR. SMITH: The Plaintiffs call Elizabeth Snow.

THE COURT: Come forward and be sworn, please.

ELIZABETH SNOW, being duly sworn, testifies and examines as follows:

THE COURT: You may have a seat.

MS. SNOW - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record.

A: Elizabeth Lee Snow.

Q: Ms. Snow, are you married?

A: No, I'm not.

Q: Do you have any children?

A: Yes, I do.

Q: And how many children do you have?

A: Just one.

Q: And what's his or her name?

A: William Franklin Snow.

Q: What's his age?

A: He's 40.

Q: What's the highest grade in school that you completed?

A: I have a specialist degree, which is over a master's degree.
Q: Okay. And what does that allow you to do if anything?
A: To teach special kids. Kids with special needs.
Q: What's your current occupation?
A: I'm a teacher.
Q: And where do you teach?
A: At Heathwood Hall Episcopal School.
Q: Any grades in particular that you teach?
A: Elementary.
Q: And how long have you been teaching?
A: I just completed my 40th year.
Q: Where do you currently live?
A: In Hilton Place Subdivision, 221 Killian Point Road.
Q: Okay. And do you live there with anyone else or is it just you?
A: It's just me.
Q: Let me show you what's been marked as Plaintiffs' Exhibit One. Ask if you recognize it.
A: I do.
Q: And what is Plaintiffs' Exhibit One?

A: Excuse me, could you ask the question again?
Q: Sure. What is that document?
A: This was the contract, the sales contract for the lot that I purchased in 1990.
Q: In 1990. And is that a two-page document?
A: Yes, it is.
Q: Is it an accurate copy of your sales contract for your lot?
A: Yes, sir. It is.
MR. SMITH: We offer this as Plaintiffs' Exhibit One. I have a full copy for you in your stack.
MR. WALKER: No objection, Your Honor.
THE COURT: Without objection.
(Plaintiffs' Exhibit Number One was admitted into evidence.)
Q: Please, look at the contract. Can you look at the first page down where it says Possession Conditions and read number three for me?
THE COURT: If I can just interrupt. If counsel, when y'all do exhibits, may I have one too --
MR. SMITH: Certainly.
THE COURT: -- so I can follow along, please? Thank you.
Q: Plaintiffs' Exhibit One, if you look at page one, down at the bottom where it says

Possessions Conditions. Do you see that?

A: Yes, sir.

Q: And can you read number three for the Court?

A: Number three says, "Lake access lot is available for purchaser's' use at the time of closing."

Q: And what did you understand that to mean at the time you signed this sales contract?

A: That I would have access to the Lake Access Lot at anytime, 24/7.

Q: Which part of it?

A: The lot, the entire lot.

Q: Let me show you what's been premarked at Plaintiffs' Exhibit Two. It's a deed filed May 7, 1990. Do you recognize that document?

A: Yes, sir. I do.

Q: Is it an accurate copy of your deed?

A: Yes, sir.

Q: We move to submit into evidence Plaintiffs' Exhibit Two.

MR. WALKER: No objection.

THE COURT: Without objection. That's record book 1583 at page 45.

(Plaintiffs' Exhibit Number Two was admitted into evidence.)

Q: As we look at it, let's turn to page two, if you would. At the very top. And can you read what it says to the Court?

A: It says, "Also conveyed herewith is an easement for the use and enjoyment by the lot owner and the lot owner's immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be appurtenant to the land herein conveyed."

Q: Okay. And what did you understand this statement in your deed to mean at the time you obtained your land?

A: That the Lake Access Lot was for the use and enjoyment of myself and any of my member -- immediate family members.

Q: Which part of the Lake Access Lot?

A: The entire Lake Access Lot.

Q: You see any document or anything in there limiting your rights to the Lake Access Lot to only ingress and egress to the lake itself?

A: No, sir.

Q: Let me show you what's been premarked at Exhibit Three. A plat, Plat Book 194-G filed October 3, 1983 and ask if you're familiar with this?

A: Yes, I've seen this.

MR. SMITH: Your Honor, we move to have Plaintiffs' Exhibit Three moved into evidence.

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Three was admitted into evidence.)

MR. WALKER: I hope it's okay if I don't rise to --

THE COURT: Absolutely.

Q: And on Plaintiffs' Exhibit Three, what's the yellow highlighted portion?

A: It says Lake Access.

Q: Okay. Is that the Lake Access Lot subject of this particular lawsuit?

A: Yes, sir.

Q: Okay. And on this particular document, do you know where your lot where you live is located?

A: Yes, sir.

Q: Okay.

A: It's on Block C. It's number six.

Q: Can you highlight that in green, please? Thank you so much.

MR. SMITH: Your Honor, I believe in your stack of documents we gave you the short version. There's a larger version that will be in

evidence.

THE COURT: Thank you.

Q: Ms. Snow, let me show you now what's been premarked as Exhibit Number Four. Restrictions Hilton Place Subdivision, book 611, page 232. Are you familiar with that document?

A: Yes, I am.

Q: And are those the restrictions that apply to your piece of land?

A: Yes, sir. This is what I got a copy of when I bought.

Q: Is it an accurate copy?

A: Yes, sir. The only difference is this says 1,200 square feet, no residents containing less than 1,200. Mine actually says 1,500.

MR. SMITH: And so on Exhibit Number Four, Your Honor, we move to submit into evidence on behalf of the Plaintiffs is Exhibit Number Four.

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Four was admitted into evidence.)

Q: Look at these restrictions. The first paragraph, can you read that to the judge,

please?

A: "It is hereby declared that the Covenants, Conditions and Restrictions hereinbelow set out are hereby imposed upon all lots hereinafter designated."

Q: And did you understand that did or did not include the Lake Access Lot?

A: That it did include the Lake Access Lot.

Q: I'm going to show you Plaintiffs' Exhibit Number Five and ask if you recognize it.

A: I do.

Q: And what is Plaintiffs' Exhibit Five?

A: It's a picture of the outhouse on the Lake Access Lot.

Q: What do you mean, outhouse on the Lake Access Lot?

A: Well, it's a -- it's something that's used as a bathroom facility on the Lake Access Lot.

Q: Okay. Was that there before Judson Smith and Ms. Bell purchased that lot?

A: No, sir, it wasn't.

Q: Is there a roadway that goes by, like a public roadway that goes by the Lake Access Lot?

A: There is.

Q: Okay. And can you see this outhouse from the

public road?
A: Yes. It's the first thing I see when I go by.
Q: Are there any other outhouses in the subdivision to your knowledge?
A: Not to my knowledge.
MR. SMITH: We'd offer Plaintiffs' Exhibit Five into evidence.
MR. WALKER: No objection.
THE COURT: Without objection.
(Plaintiffs' Exhibit Number Five was admitted into evidence.)
Q: I'm going to show you Plaintiffs' Number Six. Do you recognize that photo?
A: Yes, I do.
Q: And what is Exhibit Number Six?
A: It looks like you're on the ramp on the Lake Access Lot looking back towards the road.
Q: Okay. Is that an accurate depiction of how it looks?
A: Yes, sir.
MR. SMITH: We'd offer Plaintiffs' Exhibit Six into evidence.
MR. WALKER: No objection.
THE COURT: Without objection.
(Plaintiffs' Exhibit Number Six was admitted into

evidence.)

Q: Let me show you what's been marked as Plaintiffs' Exhibit Number Seven. Do you recognize those two photographs?

A: Yes, sir.

Q: And what are those photographs of?

A: Again, the Lake Access Lot.

Q: Okay. On the top photograph, is that looking from the public roadway?

A: Yes, it does appear to be.

Q: Towards the lake?

A: Yes, sir.

Q: And the second photograph, it says, "Standing in middle of driveway looking up to Killian Point Circle." Is that an accurate view?

A: Yes, sir.

Q: Is that how it looks today?

A: Yes, sir. I believe so.

MR. SMITH: We'd offer Plaintiffs' Exhibit Seven into evidence.

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Seven was admitted into evidence.)

Q: I'm going to show Plaintiffs' Exhibit Eight,

ask if you recognize it.
A: Yes, sir.
Q: The top document, is that what the view of the outhouse looks from that particular vantage point?
A: Yes, sir.
Q: And the bottom view, do you know what this structure is on the right side?
A: I believe it's a gazebo.
Q: And do you know what the structure is past the gazebo?
A: I believe it's a dock.
Q: And on the left, something's round. Do you know what that is?
A: I understand that's a fire pit.
Q: Okay. Before Judson Smith purchased the lot, he and Ms. Bell, was the outhouse, the gazebo, the on-land deck or the fire pit there?
A: No, sir.
Q: You bought your lot in 1990. When did you actually build on it?
A: In 2005-2006.
Q: Okay. What types of activities since 1990 have you performed, if any, on the Lake Access Lot?
A: Just to walk on it.

Q: Before the Lake Access Lot was sold, did the developers or grantors, they notify you that the Lake Access Lot was being sold?
A: No, sir. I heard nothing.
Q: Okay. Since the 1983 restriction we talked about earlier --
A: Yes, sir.
Q: -- since then did the developers or grantors notify you in any way that there were subsequent or later amendments to the restrictions or modifications?
A: No, sir.
Q: After the Lake Access Lot was sold to Mr. Smith and Ms. Bell did either Mr. Smith or Ms. Bell contact you indicating that they intended to build on the Lake Access Lot?
A: No, sir.
Q: If the Court decides to allow the outhouse to remain, do you have an opinion of whether or not that will affect your property value?
A: Yes, sir. I think it already affects my property value.
Q: Explain that to the Court, please.
A: Because it is an outhouse. It's a bathroom outside.

Q: And do you think it affects your property value, if it's allowed to stay?
A: Yes, sir.
Q: Do you have an idea of how much you think your property's worth?
A: At this time, yes.
Q: How much?
A: Two-hundred and twenty-five thousand.
Q: Okay. And how much, if any, do you think the outhouse negatively impacts your property value?
A: Twenty-five thousand.
Q: Okay. And why do you believe that?
A: Because the economy today already has been impacted, it's poor. I've actually seen the value of my property go down since I've built in 2006 and I think that's brought it down further.
Q: If this Court limits your use of the Lake Access Lot to only ingress and egress to the lake, do you believe that will affect your property value?
A: Yes, sir.
Q: Why?
A: Well, it'll certainly affect the wording in the

deed and what I thought I had paid for or bought with the lot I actually built on.

Q: Okay. And as we look at your deed, did you negotiate with someone regarding the sales contract?

A: Yes, sir.

Q: Who did you negotiate with?

A: Charles Coleman, Sr.

Q: Was he one of the original developers?

A: Yes, sir.

Q: And is that the deed he provided to you for your land?

A: Yes, sir.

Q: Okay. Have you ever considered throwing a barbecue or a party on the Lake Access Lot?

A: Not me personally, no, haven't thought about it.

Q: Okay. Do you have any relatives or family who might like to use the lot?

A: Yes, sir.

Q: And what do you mean by that?

A: I have grandsons. And they're very interested in the lake at this point. They're ages eight and 10. They like to swim in the lake. They like the water craft, the canoes. We've looked

at those. Just walking down there and looking at the lake.

Q: And would you like for them to have the ability to swim?

A: Yes, sir. They love to swim.

Q: What's the main thing you're looking for in this lawsuit?

A: I would like to know that I have access to the entire Lake Access Lot. And I would like that to go back to the grantors and that I have an opportunity to have some say as to what happens to that Lake Access Lot if anything's going to change.

MR. SMITH: Okay. Just to clean up, Your Honor, we would like to offer Exhibit Eight as evidence on Plaintiffs'.

MR. WALKER: Without objection.

(Plaintiffs' Exhibit Number Eight was admitted into evidence.)

MR. SMITH: Please answer any questions Mr. Walker has for you.

THE COURT: Cross, Mr. Walker.

MS. SNOW - CROSS EXAMINATION BY MR. WALKER:

Q: Ms. Snow, the word unfettered has been used in this case a lot. And isn't it true that

Charles Coleman, Sr. never told you you had unfettered access to this lot?

A: I don't think he used the word. I don't remember.

Q: And your deed says you have use of lake access, right?

A: It says I have --

Q: Use and enjoyment, I'm sorry. Use and enjoyment of lake access.

A: Lake Access Lot. It does say lot, as recorded, as shown on the recorded subdivision lot.

Q: And that plat in front of you, all it says is lake access, right?

A: Yes.

Q: And if you wanted to walk down there right now, stand in the street in front of the Lake Access Lot and walk down to the water, you could do it right now today, right?

A: Yes, sir. That's what I've been told. Not by Mr. Smith, but --

Q: If you wanted to go put a canoe in, right now today you could walk down there and do that?

A: Yes, sir.

Q: Has Jud Smith done anything to prevent you from having access to the lake on the lake access

parcel?
A: No, sir.
Q: Has anybody told you that Mr. Smith would do anything to prevent you from getting to the lake on the lake access parcel?
A: No, sir. I have seen vehicles parked on the drive, on that road going down there, but not often.
Q: And vehicles can be moved, right?
A: Yes, sir.
Q: You've never asked anybody to move a vehicle so you could get to the lake, right.
A: Right.
Q: You talked about seeing the outhouse as you drive down the road.
A: Yes, sir.
Q: Do you pass by this property on a regular basis, the Lake Access Lot?
A: No, sir.
Q: Did you ever see a for sale sign in front of the Lake Access Lot?
A: No, sir, I didn't.
Q: So, you didn't go down there for a year?
A: No, sir. I guess not, if it was on the lot for a year.

Q: Do you know if it's, at the end of the Lake Access Lot, a good place to swim or not?
A: I don't know.
Q: Before the property was sold to Mr. Smith and Ms. Bell, it was poorly maintained, wasn't it?
A: It was not well maintained.
Q: Is it more well maintained today?
A: Yes, sir.
Q: Grass is cut, looks good, doesn't it?
A: Yes, sir.
Q: You told your lawyer that one of the things you want in this case is you want the right to have a say in what happens to the Lake Access Lot.
A: Yes, sir.
Q: Can you tell me where in any of these documents you've looked at you've got that right?
A: It's my opinion that when I bought my lot, I bought and I paid for that access, the access to the Lake Access Lot. And it's my opinion that at some point, the grantors and their decedents should have asked those of us who had a vested interest in the Lake Access Lot to pull together and say, hey folks, let's look at what we could do together to make this work for everybody.

Q: What have you ever done, prior to this lawsuit, to try to make this work for everybody?
A: Well, I moved there in 2006, so I would say nothing right -- yes, sir. But I also didn't know all was happening in the background.
Q: When is the first time you ever read these restrictions?
A: Oh, I've read these restrictions many times.
Q: When was the first time?
A: When I bought the Lake Access Lot.
Q: When was the last time you looked at them? So you looked at them when you bought. When was the next time you looked at them?
A: I looked at them when I took my plans by Sissy Freeman's to have her approve my house plans.
Q: Decades later?
A: Probably, late '90s.
Q: You talked about your opinion. And we need to talk about another one of your opinions, and that is about property value. You're trained as an expert in your education field, but you're not trained as an expert in real estate.
A: Right.
Q: You're absolutely entitled to give the judge your opinion about the value of your own

property. Isn't it true that the economy's depressed property values where I live and where you live the last few years since you've --

A: Yes, sir.

Q: And you lack the training to say how much of that depression's due to what you attribute on the lake access and what was caused by the economy.

A: That is correct. But my property value has gone down since I've refinanced my home twice since 2006. It's gone down $19,000.

Q: Well, mine's gone down 20,000 and I don't have issues like this.

A: Right.

Q: How can you say it's attributable to the lake access?

A: Yes, sir.

Q: Can you?

A: No, sir.

Q: How much did it improve your property to have what was an unkempt lot, now well maintained? How much did it help?

A: Well, I would say it helped except for the outhouse.

Q: So it improved things, except the outhouse depressed it?

A: Yes, sir.

MR. WALKER: Okay. Just one second, Judge. No further questions, Judge. Thank you.

THE COURT: Brief redirect?

MR. SMITH: Yes, sir.

MS. SNOW - REDIRECT EXAMINATION BY MR. SMITH:

Q: A moments ago you were asked about your conversations with Charles Coleman; is that correct?

A: Yes, sir.

Q: Did you discuss the Lake Access Lot with Charles Coleman at the time you signed your sales contract or got the deed?

A: Yes, sir, I did.

Q: And what did you discuss with Charles Coleman?

A: Well, I actually had -- I was looking at two pieces of property. One was behind Chapin High School and one was in this neighborhood. And he and I talked about the advantages of buying in this neighborhood because -- and I actually paid more, because of the fact that I had access to a Lake Access Lot and what that offered to me.

Q: If you had a canoe and you had a boat on a trailer --
A: Yes, sir.
Q: -- are you always able to launch it down that driveway we referred to in the photographs?
A: Yes, sir.
Q: Have you seen vehicles there that sometimes block access?
A: Yes, sir.
Q: And would that stop you from being able to launch?
A: Yes, sir.
Q: We talked about the deed language earlier. Mr. Walker asked you about it. Page two of your deed.
A: Yes, sir.
Q: Does it say you have -- you're entitled to enjoyment of the lake access access or the Lake Access Lot in its entirety?
A: The Lake Access Lot in its entirety.
Q: And this was the language from the deed from the original developer, correct?
A: Yes, sir. That was based on our conversations.
Q: We know you're not an official appraiser. What do you believe the current value of your house

is right now?
A: The last time it was appraised it was $225,000.
Q: Okay. And you believe that the existence of the outhouse reduces the value?
MR. WALKER: He is leading, Your Honor.
MR. SMITH: He opened the door.
THE COURT: I think you can ask her. I think the objection is to the form of the question.
MR. SMITH: Okay. Let's try it again.
Q: Do you have an opinion as to how the value of your house has been affected or will be affected by the presence of the outhouse in your neighborhood?
A: Yes, sir.
Q: And what's your opinion?
A: That it brings the value of my property down.
Q: Before Jud Smith got there, as a general rule, was the lake access area a natural area?
A: Yes, sir.
Q: Okay. Do you have anything for or against natural areas?
A: No, sir.
Q: Before the issues in this lawsuit arose, did you have any reason to look at the restrictions from year to year?

A: No, sir.
Q: Your lot, which you marked in green, does it abut the lake?
A: No, sir, it doesn't.
MR. SMITH: Okay. That's all I have, Your Honor.
MR. WALKER: Nothing further, Judge.
THE COURT: You can step down. Thank you.
MR. SMITH: The Plaintiff will call Steve Linder.
THE COURT: Thank you. Mr. Linder.
STEPHEN LINDER, being duly sworn, testifies and examines as follows:
MR. LINDER - DIRECT EXAMINATION BY MR. SMITH:
Q: May it please the Court. Please state your full name for the record.
A: Stephen Franklin Linder, Sr.
Q: Mr. Linder, are you married?
A: Yes.
Q: And to whom are you married?
A: Jackie Bower Linder.
Q: Is she here in the courtroom today?
A: Yes.
Q: You have children?
A: Yes.
Q: How many children do you have?
A: Three stepchildren and two other children, five

together.
Q: And what are their ages? Can you remember?
A: Thirty, 29, 26, 25, and 10 -- 9 and a half.
Q: Where do you live?
A: 105 Big Thursday Court, Chapin, 29036.
Q: Okay. Is that in a subdivision?
A: Hilton Place Subdivision.
Q: Okay. In relation to the Lake Access Lot, where do you live?
A: The property abuts against the Lake Access Lot.
Q: Okay. Let me get these exhibits in order for one second. Do you see the Plaintiffs' Exhibit Three, the plat of the subdivision?
A: Yes.
Q: And can you also mark with the green highlighter, can you mark your lot?
A: Where we have the house?
Q: Yes. Do you also own a second lot?
A: Yes.
Q: Which one?
A: Number nine.
Q: Go ahead and mark it too. Your children live with you at this address?
A: My son, the nine and a half year old.
Q: What's the highest grade in school you

completed?
A: Doctor of Dental Medicine.
Q: And what's your occupation?
A: General dentist.
Q: How long have you been a dentist?
A: Going on 29 years.
Q: And where is your dental office located?
A: 201 Amicks Ferry Road, Chapin and 1510 Bush River Road in Columbia.
Q: Let me show you Exhibit Number Nine and Ten. Ask if you recognize it.
A: Yes.
Q: What are Exhibits Nine and Ten?
A: Deed to real estate.
Q: Are those the deeds to you and then to you and your wife regarding property in the subdivision?
A: Yes.
MR. SMITH: We would offer into evidence Exhibits Nine and Ten.
MR. WALKER: No objection.
THE COURT: Without objection, Number Nine and Number Ten.
(Plaintiffs' Exhibit Numbers Nine and Ten were admitted into evidence.)

Q: How long have you lived adjacent to the lake access?
A: Since April of 1999.
Q: Since April of 1999. What's been your understanding of your ability to use the Lake Access Lot?
A: That it was available for use of the whole lot.
Q: Since 1999 and up until the time that Judson Smith purchased the lot with Ms. Bell what types of activities, if any, have you performed on the lot?
A: Launching boats, jet skies, fishing, walking. When it snowed, we used the hill as a slide to go down the hill. Picked blackberries.
Q: At some point, did you become aware that the Lake Access Lot was sold?
A: Yes.
Q: Okay. And did the grantors or developers, did they contact you to let you know it was being put up for sale?
A: No, they didn't.
Q: Did you know it was for sale?
A: I did.
Q: And what did you think about that?
A: Just curious, you know, what's going on. I saw

that at one point there was a delinquent tax notice placed on it prior to it being sold.

Q: When it was sold, did the new owners or did the sellers notify you?

A: No.

Q: At some point did Mr. Smith and Ms. Bell, did they began building on the lot?

A: Yes.

Q: Did they contact you before they began building to get your opinion or to get your consent?

A: No.

Q: Are you familiar with Plaintiffs' Exhibit Five?

A: Yes.

Q: What is it?

A: It's the outhouse on the Lake Access Lot.

Q: Okay. Is that close to where your property is located?

A: It is.

Q: Okay. Have you had any issues with the outhouse?

A: The only issue I have is that it's a detriment to the neighborhood.

Q: And why is it a detriment to the neighborhood?

A: Because it's an outhouse where people go to the bathroom outside.

Q: How would you describe your neighborhood, middle class, nice neighborhood? How would you describe it?
A: Upper middle class.
Q: Do you have an opinion as to whether or not that outhouse impacts the value of your land?
A: Yes.
Q: And how does it impact it, if at all?
A: I believe it reduces the value of my property.
Q: Okay. How much do you think your property's worth?
A: Approximately $280,000.
Q: Okay. And if the Court rules that the outhouse gets to stay, how much do you think your property is worth then?
A: Less. But, as I stated in my deposition, between 10 and $25,000.
Q: Are you familiar with the boat ramp located on the Lake Access Lot?
A: Yes.
Q: Have you launched your boat there before Judson Smith or Christy Bell purchased the Lake Access Lot?
A: Yes.
Q: How many times over the years?

A: Between 40 and 50.
Q: Were you always able to launch your boat there?
A: Yes.
Q: Okay. Since then have you noticed whether or not the launch ramp on the Lake Access Lot, the driveway and the launch ramp, whether or not it's available for boats to be launched?
A: Yes.
Q: Okay. And have there been times when it not been available?
A: Yes.
Q: Explain that to the Judge, please.
A: Observed over time during the -- after the sale and during the construction that it's been blocked by vehicles multiple times.
Q: Okay. And when the vehicles blocked it, were you able to observe whether or not it was for a short period of time or for a longer period of time?
A: Both. I mean, I can't tell you exactly, but yes, both.
Q: Have you had the experience of dealing with any noise from the Lake Access Lot?
A: Yes.
Q: And tell the Court about that, please.

A: During the construction all the construction noise, bulldozers, backhoes. And then once they started using it, Mr. Smith and Ms. Bell started using it, they would occasionally have parties. I would hear noise from the parties.
Q: If this Court chooses to limit your use of the Lake Access Lot to only ingress and egress, do you believe that will affect your property value?
A: Yes.
Q: How?
A: If I try to sell my property, the people who potentially would buy it are going to know that access to the Lake Access Lot is severely limited.
Q: Over the years have you ever noticed anyone mowing the Lake Access Lot?
A: I used to mow it.
Q: And how often would you mow it?
A: A few times during the summer, just to keep it neat.
Q: One year or every year?
A: Pretty much every year until it was transferred.
Q: Before the Lake Access Lot was sold, were there

any structures located on the water or on land?
A: There was a deck on the shoreline on the east side of the ramp.
Q: And did you ever use that deck?
A: I did.
Q: And how did you use it?
A: Fished off of it. Tied my boat to it.
Q: You ever consider picnicking or throwing a party or throwing a barbeque on the Lake Access Lot?
A: Not really.
Q: Would you like the right to do that if it's available?
A: Yes.
MR. SMITH: Please answer any questions the defense counsel has for you.
THE COURT: Cross?
MR. WALKER: Is it okay if I stay here, Judge?
THE COURT: Yes, sir.
MR. LINDER - CROSS EXAMINATION BY MR. WALKER:
Q: Mr. Linder, I'll start the same place I did with Ms. Snow. Your complaint says you're entitled to unfettered access over this lot. Can you point to anywhere in the restrictions or the plat where it says you have unfettered

access to the whole thing?
A: No.
Q: Isn't it true if you can use the fire pit, use the gazebo, use anything you want, it's more burdensome on the owners than if you just have the right to come and go?
A: If we have access to the entire LOT, why would it be burdensome? I don't understand.
Q: Leave trash, got to be cleaned up after, wear and tear. All that occurs if somebody's using it, right?
A: It could, yes.
Q: Nobody's ever told you you had unfettered access to the lake lot, right?
A: Yes.
Q: Has anybody ever told you you've got unfettered access to the lake lot?
A: No.
Q: Anybody ever told you that there would never be any improvements made to the lake property, it was going to stay natural?
A: None.
Q: Do you know why your complainant alleges that that's the way it's suppose to be?
A: That was the original state of it.

Q: Your deeds are -- I'm sorry, I didn't mean to cut you off.
A: That's okay.
Q: Your deeds are in evidence. And you and your wife, these deeds don't have the Colemans or the Stoudenmires names on them, because they didn't sell the property to you, right?
A: Right.
Q: If you wanted to go on the Lake Access Lot right now, walk down to the lake, put a boat in, there's nothing physically preventing you from doing that?
A: Correct.
Q: There's no chain up, no trench dug, right?
A: That's right.
Q: And Mr. Smith's never told you you can't have lake access or you can't put a boat in?
A: That's correct.
Q: You mentioned using the dock.
MR. WALKER: Would you mark this, please?
Q: Mr. Linder, I'm going to hand you what's been marked at Defendants' Exhibit One. And it's an aerial photograph. Can you see the dock on that photograph?
A: Yes.

Q: Let me give you a colored marker, it's red. If you would mark where the dock is on Defendants' Exhibit One. And that -- you can see the red mark on where you say the dock is, right?

A: Right.

MR. WALKER: And, Your Honor, I haven't had anybody really explain this, but for efficiency sake, I'd go and move and he may object.

MR. SMITH: Move to admit it?

MR. WALKER: Put in, yeah.

MR. SMITH: No objection.

(Defendants' Exhibit Number One was marked and admitted into evidence.)

Q: The lake access parcel is outlined in yellow on that Exhibit One, right?

A: Yes.

Q: And the dock is not on that lake access property, is it?

A: Not according to this, no.

Q: Where did that document say it came from? Down lower left-hand corner. Is that a Lexington County document?

A: It has Lexington County on the right-hand corner.

Q: During the years you've lived next to this

property, did the homeowners ever together and have a clean up day or do anything collectively to improve the lake access parcel?

A: Not to my knowledge.

Q: And you mentioned mowing it. You would mow it once or twice a year?

A: During the summer.

Q: Once or twice a year?

A: Yes, sir.

Q: Did you ever have any interest in owning the Lake Access Lot, direct ownership interest in it?

A: Not really.

Q: You were aware the property was for sale?

A: Yes.

Q: Did you ever contact the Colemans or the Stoudenmires about buying the lake access parcel?

A: No, sir.

Q: Did you ever call them up expressing any concerns about it being for sale?

A: No, sir.

Q: You've been asked about improvements made by Mr. Smith and Ms. Bell. You saw those improvements being made?

A: Yes.
Q: And you didn't go over there and tell them they can't do that, stop?
A: No, I did not.
Q: You're not trained in the real estate field, so while you're entitled to give an opinion about the value of your property, you don't have any training in doing that?
A: No, I don't.
Q: Does having the Lake Access Lot cleaned up and looking better increase your value or not?
A: It could if it was available for use, the entire lot, yes.
Q: And we've already established you can't point to anything -- I mean, you put a red marker on the dock. I welcome you to circle in red any language in the restrictions that says you have unfettered access to the whole lot. Can you do that for me?
A: Unfettered is not in the restrictions.
Q: The Lake Access Lot, where is it mentioned in the restrictions or your rights in it?
A: Could you repeat the question?
Q: Sure. Is there anywhere in the restrictions where it indicates you have unfettered or other

rights in the lake access parcel?
A: I don't see that.
Q: And you never met, what I call the old guys, Mr. Coleman and Mr. Stoudenmire, who started this subdivision back in, I think the 80s?
A: No.
Q: Did you ever make an effort to form a homeowner's association?
A: No.
Q: The noise you heard from parties, if you have outdoor party at your place, would it be a comparable level of noise?
A: Possibly.
Q: Just normal excitement at a party is what you've heard?
A: Yes.
Q: Have you accused Christy Bell of stalking you at your office?
A: No.
Q: Have you told, you know, I know you're following me, you're wearing a baseball cap?
A: No, I didn't say that.
Q: What did you say?
A: I saw you walking down Amicks Ferry Road.
Q: Did you do this to her?

A: No.
Q: You didn't do this to her, I'm watching you?
A: No.
MR. SMITH: Let the record show that he's pointing to his eyes and into the witnesses eyes.
Q: Your lot abuts the lake access parcel, right?
A: Yes.
Q: Had you been using part of the lake access parcel for a driveway into the back of your lot?
A: Yes. Until it was bought.
Q: By Mr. Smith and Ms. Bell?
A: Yes.
Q: They planted bushes there, I think?
A: They did.
Q: Okay. Is this after they discovered a broken sewer line on the Lake Access Lot right where that driveway was?
A: They dug a trench across the driveway. Whether or not there was a leak there, I don't think there was.
MR. WALKER: Your Honor, I'm normally not the fumbling type, so I apologize. I'm just going to let Mr. Smith explain it. I don't have any more questions, Judge.

THE COURT: Redirect?

MR. LINDER - REDIRECT EXAMINATION BY MR. SMITH:

Q: Still have that red marker in front of you, correct?

A: Yes.

Q: Can you circle any document that limits your interest in the Lake Access Lot to only ingress and egress?

A: No.

Q: Anywhere on the plat, does it say you're limited to only ingress and egress?

A: No.

Q: Anywhere on the restrictions, does it say you're limited to only ingress and egress?

A: No.

Q: Does your deed indicate it's limited to only ingress and egress?

A: No.

Q: Let me see the Defendants' Exhibit One that was just marked. Where's your red mark on there? And what's that red mark indicate?

A: The dock on the Lake Access Lot or the shoreline.

Q: Okay. What's the Lake Access Lot? If you had a boat today, actually if you've had a boat

from June 21 to July 4 and you wanted to launch your boat on Lake Access Lot, would you have been able to?

A: Yes.

Q: Okay. Do you know whether or not the roadway was blocked during that period of time?

A: I don't remember.

Q: Let me show you what's been marked -- we'll get to it with another witness. Have you seen the 1983 restrictions?

A: Yes.

Q: Do you believe they apply to the Lake Access Lot?

A: Yes.

Q: Do you believe one way or the other that the buildings, the outhouse, the gazebo, the deck that's on the land, do you believe those violate those restrictions?

A: Yes.

MR. SMITH: No further questions.

MR. WALKER: No further questions, Judge.

THE COURT: You may step down.

MR. SMITH: Plaintiffs call Kathryn McDaniel.

THE COURT: Come and be sworn, please.

KATHRYN MCDANIEL, being duly sworn, testifies and

examines as follows:

MS. MCDANIEL - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record.

A: Kathryn Ann McDaniel.

Q: You've testified in court before?

A: No, sir.

Q: If you would, speak up just a little bit, okay?

A: I have laryngitis.

Q: Would you like some water?

A: Please.

Q: Just be careful, don't spill on any of the exhibits. I'm going to keep out this plat for you. Are you married?

A: Yes, sir.

Q: To whom are you married?

A: Dan McDaniel.

Q: Okay. What's the highest grade in school you've completed?

A: I went through surgical technician training at South Carolina Baptist Hospital.

Q: Are you actively working or are you retired?

A: I'm retired.

Q: Where do you currently live?

A: At 112 Killian Point Circle.

Q: Okay. Do you know which subdivision that's in?

A: Hilton subdivision.
Q: Okay. I'm going to show you what's been premarked as Plaintiffs' Exhibit Eleven. I ask if you recognize that.
A: Yes, sir.
Q: Is that your deed to your home?
A: Yes, sir.
MR. SMITH: We would offer Plaintiffs' Exhibit Eleven into evidence.
MR. WALKER: No objection, Your Honor.
THE COURT: Without objection, Number Eleven.
(Plaintiffs' Exhibit Number Eleven was admitted into evidence.)
Q: Are you able to mark on a plat where your home is located, where your lots located?
A: I think so.
Q: You see that green marker? Can you mark for the Court? And the first thing to do when you mark -- do you see the lot that says lake access?
A: Yes.
Q: Are you near the lake access?
A: I adjoin the lake access.
Q: You adjoin it. Can you mark that please?
A: It's this one.

Q: Okay. Can you please highlight that then? Thank you. Do you have any problem with any smells or odors coming from the Lake Access Lot?
A: Yes, sir.
Q: When is the last time you had one of those problems?
A: If I recall correctly, I think it was the weekend of July 4th.
Q: What year?
A: This year.
Q: And what was the issue?
A: The smell.
Q: And what did it smell like?
A: It smelled like an outhouse.
Q: Do you know if any activities occurred on the Lake Access Lot during that period?
A: I believe it was a party.
Q: Why do you believe that?
A: Because as I drove by there were a lot of cars there.
Q: Are you familiar with the outhouse on the lot?
A: Yes, sir.
Q: And you believe that outhouse has an effect on your property value?

A: I would think so.
Q: Okay. And how much, if any, effect do you think it has on your property value?
A: I think that it would bring the value down probably at least $20,000.
Q: Okay. And how did you arrive at the figure $20,000?
A: I guess probably just from what I think I would pay for something with an outhouse next door.

MR. SMITH: Please answer any questions that defense counsel has for you.

MS. MCDANIEL - CROSS EXAMINATION BY MR. WALKER:

Q: Good morning, Ms. McDaniel.
A: Morning.
Q: I feel --

MR. WALKER: Your Honor, is it okay if I sit down and talk to her? I feel like I'm just standing over you.

THE COURT: Certainly.

Q: That okay? Ms. McDaniel, you were familiar with where things, improvements are located on the Lake Access Lot, right?
A: Yes, sir.
Q: And the building that we've all been calling the outhouse is on the side of the lot away

from where you live, right?
A: Yes, sir.
Q: This is Plaintiffs' -- excuse me, Defendants' Exhibit One.
MR. WALKER: Sorry, Judge. I was Plaintiff last week.
Q: This is Defendants' Exhibit One. This is the Lake Access Lot. And here's the ramp. Can you mark where your house is? If it's even shown on this photograph.
A: I don't think my house is shown on this. It's over here.
Q: So, it's to the left of the photograph?
A: Yes, sir.
Q: And do I understand your testimony to be that from your house you could smell something coming from the Lake Access Lot?
A: Yes, sir.
Q: And the outhouse is going to be over on the right-hand side of the Lake Access Lot in that photograph?
A: Yes, sir.
Q: What is that, 200 feet maybe?
A: Maybe.
Q: And it's your testimony from 200 feet away, you

can smell something?
A: Yes, sir, it is.
Q: If this facility is on a DHEC permitted system, you got any explanation for why it would be omitting any kind of odor?
A: No, sir, I don't.
Q: And about property value, you've heard me speak to your neighbors.
A: Yes, sir.
Q: You're not trained in evaluating real estate and what it's worth, right?
A: That's right.
Q: And as I understood your testimony with your lawyer, you attribute a reduction in your property value solely to the existence of the outhouse?
A: Yes, sir.
Q: Why?
A: Because the smell is horrible.
Q: Had there been horrible smells from the lot before?
A: No, sir.
Q: Never?
A: No, sir.
Q: You're aware of there being sewer leaks?

A: Yes, sir.
Q: On the lake access property in past years?
A: On the Lake Access Lot itself?
Q: Yes, ma'am.
A: No, sir, I'm not.
Q: But you can't explain why a DHEC permitted system is something you could smell 200 feet away?
A: I don't know that it's DHEC permitted. I haven't --
Q: I understand you don't know that. I'm just trying to understand why you think it's coming from there.
A: Well, because we don't smell it until after there's been activity over there.
Q: Well, I understood you, when you talked to your lawyer, to say you smelled this odor on July 4.
A: During that weekend.
Q: Happen any other time in the last year?
A: That is the only time that I personally had been aware of it.
Q: I don't have any more questions, Judge.
MR. SMITH: Nothing further.
THE COURT: You can step down.
MR. SMITH: Plaintiffs call Vivian Gehlken.

THE COURT: Come forward, please.

VIVIAN GEHLKEN, being duly sworn, testifies and examines as follows:

MS. GEHLKEN - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record?

A: Vivian Seiber Gehlken.

Q: Ms. Gehlken, are you married?

A: Yes, I am.

Q: And to whom are you married?

A: Henry D. Gehlken, Sr.

Q: Do you have children?

A: Yes, I do.

Q: Okay. And what are their ages?

A: My daughter is 44 and my son is 37.

Q: Any live at home with you?

A: No, but we have five grandchildren nearby.

Q: What's your current home address?

A: 217 Killian Point in Hilton Place.

Q: Is that a subdivision?

A: Oh, yes.

Q: And what's the subdivision name?

A: Hilton Place.

Q: Okay. I'm going to show you what's been premarked as Plaintiffs' Exhibit Twelve. You recognize Exhibit Twelve?

A: Yes, I do.
Q: What is that?
A: A deed prepared by the law offices of Smokey Brown for my husband and me in the purchase of the property.
Q: Is that an accurate copy of your deed?
A: Yes, it is.
MR. SMITH: Your Honor, we move to admit into evidence Plaintiffs' Exhibit Number Twelve?
MR. WALKER: No objection.
THE COURT: Without objection.
(Plaintiffs' Exhibit Number Twelve was admitted into evidence.)
Q: What is the highest grade in school you completed?
A: PhD.
Q: In what?
A: Educational leadership and policies.
Q: Are you currently employed?
A: No. I've been off for two years because my husband suffered serious heart attack.
Q: Do you know where your property's located on the plat?
A: Oh, yes.
Q: Okay. Can you mark it in green?

A: Here's the plat. I'm also on block C, number five.
Q: Does your property, is it adjacent to the water?
A: No. I'm a whole block away from the water. I just have a lake view.
Q: All right. Do you see the picture of the outhouse, Plaintiffs' Exhibit Number Five?
A: I certainly do.
Q: Are you familiar with that particular structure?
A: Yes. I tend to walk a lot in the neighborhood, although with the heat and -- depending on weather. Sometimes I use the gym. I have passed it on several occasions.
Q: Are you familiar with the Lake Access Lot?
A: Yes.
Q: And where is the outhouse located?
A: It's on that lake access.
Q: In addition -- have you done any activities over the years on the Lake Access Lot itself?
A: Yes, because my grandchildren range in age from 14 down to eight. And over the years they have all been -- you know, two of them live in Newberry. Three of them are right there in

Chapin, so I see them -- we have them two times a week. We often would go down there. Their favorite thing was to step down in that water and just kind of, you know, like small kids do, splash around and everything. So they knew right where it was. One time I started to skip it and one of them said, go that way, because we had to take a right to get to it. So, yes, we did enjoy what we had.

Q: Have you done any of that with your grandkids since the Lake Access Lot was sold?

A: No, no. It was kind of uncomfortable situation. I just was shocked, so I was afraid to use it.

Q: Have you done anything else, any activities on the Lake Access Lot, in addition to taking your grandchildren there?

A: I walked around it myself a few times. I did not see any trash anywhere. I did see some grass a little tall, but no trash. We respect our neighborhood. We don't do that.

Q: You have an opinion as to what your property values worth?

A: Well, like everyone else, ours has gone down. Originally, it was over 300,000. Now, it's

about 250,000. And I attribute that just to the economy. But I want to say with the economy, which we know will rebound, that it will be coming back. And also the Lake Access Lot and having that available as part of our property will certainly help if we choose to sell, which I'm not saying -- but that adds to the value, of course. And when we bought it, we didn't even know we had it. It was explained to us at closing by our attorney. He read the document to me. He said, you know, you have a Lake Access Lot with your property. And I said no, wonderful. So he read it line by line and he read all the restrictions. So I was very comfortable and pleased.

Q: Your understanding at the time you brought your property, what was your understanding of what you were allowed on the Lake Access Lot?

A: There weren't any limitations, other than fences and putting up constructions and building and so forth. Because it was also for other people in Hilton Place. And so we could share, maybe even have community picnics.

Q: You believe the outhouse, itself, the fact that the outhouse is there in your neighborhood, do

you believe it has an effect of the value of your property?

A: I think it has a negative effect. Not just my property, but our subdivision. For people who do drive around, say on Sundays looking at the properties, they see it. It instills a certain image of a level. And our homes are at a level that you wouldn't expect to see -- even decorated as an outhouse, whether it's a bathroom inside or not, the fact that is something -- it's cool, we don't see it that way. So I think that most people would see that as a detriment. That's how I feel.

MR. SMITH: Please answer any questions the defense counsel has for you.

THE COURT: Cross.

MS. GEHLKEN - CROSS EXAMINATION BY MR. WALKER:

Q: Ms. Gehlken, if you wanted to walk down to the lake across this access lot right now, there's no physical barrier preventing you from doing that?

A: Well, I told you I walked. There have been times I've seen a trailer long ways, where the access post comes. I've seen a trailer long ways there. I've also seen the boat being left

pulled up a partial way left right there. So frankly, none of us would feel free to just go down and use it, because ever since we realized that this was going on by our neighbors, we felt they had to know about our covenants. They had to know all of that. And yet they chose to do this. And we saw it as -- that we wouldn't be accepted as welcome. We felt that way. I've never met him, this is the first time I've ever seen his face.

Q: You're angry with him?

A: I'm upset of losing the lot or appearing to.

Q: Isn't it true, he has never told you you can't come on that lot?

A: I haven't ever talked with him. I've never seen him. So how could he have told me that?

Q: So, you've never tried --

A: He's never informed us of anything. And again, I live near Ms. Snow. I don't pass the lot on my way to work.

Q: Did you ever pay taxes on this property all the time you've lived there?

A: On our property, yes. But that was, in the reading from our attorney, it was planned and designated by the grantors and by their

decedents that that was the plan originally, that -- even Coleman, the senior, always wanted to have that as part of our subdivision. A Lake Access Lot for all of us.

Q: Ms. Gehlken, let's take this statement apart one piece at a time.

A: Okay.

Q: You've never testified you talked to Charles Coleman.

A: No, no. This is what I had gotten from people who have.

Q: So, you --

A: I'm giving you, you know, my perception.

Q: Well, what counts here is your actual knowledge and you've had Charles Coleman tell you what he was going to do with this property, have you?

A: I will say though, in the covenants --

Q: Ma'am, this is what you know --

MR. SMITH: Objection. Let her finish the answer.

MR. WALKER: She can --

MR. SMITH: Objection.

THE COURT: Stop. Stop. Stop. Everybody stop talking. She has a right to explain her answer.

MR. WALKER: Yes, sir.

THE COURT: Which she can do. But also counsel has a right to say please answer the question and explain. So if you'll answer the question and then you can say, may I explain? You can certainly explain. And counsel, you have a right to redirect, if you believe the need is necessary. So answer the question and you have the right to explain.

A: Well, I take issue with the question, have I ever talked myself to Charles Coleman, Sr. Because the fact that he was, and his family, major grantors, people who developed. And because it was explained to us that that was their oath, their plan from the beginning --

MR. WALKER: And I've got to object to hearsay testimony about what somebody else might have told her, other than Mr. Coleman.

MR. SMITH: He opened the door asked her where she got the information, when he opens the door.

THE COURT: I don't think that's door opening. Again, the objection from defense counsel is, I believe the question was have you directly talked to Mr. So just if you'll answer --

THE WITNESS: I'll say no.

THE COURT: Okay. She said no that she's never

directly talked to him. And these are -- she's heard from other people. Okay.

Q: And as I understand it, Ms. Gehlken, you've never paid taxes on the lake access parcel all these years, right?

A: No, I have not.

Q: You've never formed a homeowner's association and approached anybody about taking responsibility for --

A: Well, my neighbor and --

Q: Please let me finish my question.

A: Go ahead. Sorry.

Q: You've never tried to form a homeowner's association and gone to any of these people about taking responsibility and control of the Lake Access Lot, right?

A: I can just simply say after the fact, we've talked about the need to do that. I and several of the people here.

Q: But up until the time it was sold, you never did that, right?

A: No.

Q: And you've testified you've walked by this lot on a regular basis, right?

A: Well, depending on the weather.

Q: Well, you saw the for sale signs up there?
A: No, no. That wasn't when I was walking. That was the time of my husband's heart attack.
Q: So you went at least six months without walking down there at all?
A: More than that.
Q: Okay.
A: I've gone a whole year this year.
Q: Okay. How often did you walk down there before your husband's heart attack? A couple of times a month?
A: No, I would say one time to two times during the week at different times, always in the evening near dark.
Q: And in a month, you would be down there with the grandkids, what, twice a month, maybe, once a month?
A: That would during the summer.
Q: And you testified there was no trash on this site at all --
A: I've never saw trash on the site.
Q: It could have been there covered up by overgrowth and you just didn't see it?
A: Possible.
Q: During the time Smith and Ms. Bell were --

excuse me, Ms. Brabham were making improvements to the property, you never went up to them and said, stop, you shouldn't be doing that?

A: At that point, word was out that they had purchased it and it was theirs. I felt no right at that point to speak to them about it. Not at that point. It would have just caused, you know, bad feelings.

Q: Have Mr. Smith, Ms. Brabham put up any signs or done anything to directly discourage you from walking down to the lake, putting a boat in there if you wanted to?

A: As I said earlier, once it became known that this had happened and we had not been informed of anything, I'm speaking for myself, I did not feel comfortable even thinking about using it. Because it belonged to someone and it wasn't any longer ours.

Q: When was it ever yours?

A: It was mine from the date in 2005 when I purchased it as a co-owner with other members of Hilton Place.

Q: Isn't it true --

A: Or co-user I should say.

Q: The easement that you claim should be the same

today as it was when you bought, right?

A: It would have been nice. Never was the conversation.

Q: Well, you never had a conversation with Mr. Smith --

A: I think it was their part to talk with us since we had -- we were obviously the ones that had a major interest in it. And was done without our knowledge.

Q: Did you and your friends who had a major interest in it ever have a clean up day and go down there collectively to neaten the place up?

A: At that time I was working full-time. And, in fact, not knowing about this Lake Access Lot, my husband had already rented Putnam's Landing for an entire year. And that's where we had to pay $1,200 to house our boat. So no, I wasn't involved in cleaning it up.

Q: Other than walking on it once a month or so in the summer with your grandkids, you didn't make any other use of it?

A: Well, I mean, they had -- I mean, we didn't just walk through, they stopped and played. I had towels. They played. They waded. They splashed each other. You know, how kids are.

So it wasn't just a walk through, we used it.

Q: Okay. And nothings to prevent you and your grandkids, nothing physically preventing you from walking down there, once you walk out of here today is there?

A: It's just uncomfortable, knowing that it's been claimed and owned by someone else.

Q: Isn't it true that prior to this time, that lot, parts of it overgrown, unkempt?

A: Unkempt is rather negative. I would say that sometimes the grass wasn't cut. That's the best I can do.

Q: The grass is cut now, isn't it, on a regular basis?

A: How does that help me? Just with our image, you mean?

Q: Doesn't the place look neater than it did before?

A: Yes, I'll give you that.

Q: Your complaint in this case says that it's improper to have any improvements made on the lake access parcel. Can you point to any language in these restrictions that says no improvements can be made on the lake access parcel?

A: The word improvements is kind of -- that's not exactly -- what we know of as no buildings, no fence. Improvement is all a matter of what you consider improvements, so I can't address that. I'll just say the restrictions have not been followed, starting from the day it was sold without our knowledge to all the things that have since happened.

Q: Well, other than putting a for sale sign up there for months, and months, and months, why do you claim the owners of the lot should have done in the way of giving notice?

A: Oh, I think we could have easily -- we have a representative right in our neighborhood. I won't put that on her or the family. But I think every single family or owner in Hilton Place should have received in writing an opportunity to come for a formal meeting and to discuss what could be done. If there are financial difficulties, we may have gotten together as a group and said we will help with taxes. But I don't think the fact that it was just decided, hey, let's sell it and not let us, who believed in what we signed, that should be law. It should be something we can count

on. I don't believe any of us should have been the one to make the contact, because we were -- I won't say victims, but we were the ones being put upon. So only because we were not informed. It was behind our backs. And I'm not angry about anything except that I signed a paper, which if this case is not won, means deed and all that I signed was worthless about the lake lot.

Q: On the plat it says make access, right?

A: Exactly.

Q: And nothing's preventing you from having access to the lake across this lot today, is there? Other than --

A: What I've already said.

Q: Other than you're upset?

A: Other than uncomfortable. I won't say -- I'm trying to express to you how it feels when you have something and you believe and you trust and then suddenly you feel betrayed and that I don't feel comfortable using. I've never been invited. I've never been greeted. I've never either of them.

Q: They have a lot they own in this subdivision too, right?

A: Who are you talking about?

Q: Mr. Smith and Ms. Bell.

A: Of course, they do.

Q: So they have lake access rights just like you by virtue of owning that lot?

A: They would have, just lake access as we had.

MR. WALKER: No questions, Your Honor.

MR. SMITH: Brief follow up.

THE COURT: Yes, sir.

MS. GEHLKEN - REDIRECT EXAMINATION BY MR. SMITH:

Q: At any time before the Lake Access Lot was sold to Mr. Smith and Ms. Bell, did the developers or the grantors, did they contact you and say -- let me finish my question. Did they contact you and say let's form a homeowner's association?

MR. WALKER: Objection, leading.

A: No. Never.

Q: Ever contact you in anyway about getting the group together?

A: No. What brought us together was when we learned, late after the fact, that it had been sold.

MR. SMITH: No further questions.

MR. WALKER: No questions, Judge.

THE COURT: You can step down.

MR. SMITH: Plaintiffs call Kenneth Kelly.

THE COURT: Come forward and be sworn, please.

KENNETH KELLY, being duly sworn, testifies and examines as follows:

MR. KELLY - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record.

A: Kenneth William Kelly.

Q: Mr. Kelly, are you married?

A: I am.

Q: And to whom are you married?

A: Anita Bishop Kelly.

Q: Do you have children?

A: I do.

Q: And what are their ages?

A: Thirty-two, 29, 22.

Q: Any of them live at home?

A: Youngest son still lives at home.

Q: What's your current address?

A: 109 Killian Point Circle.

Q: Do you know what subdivision that's in, if any?

A: Hilton Place.

Q: Let me show you what's been premarked at Plaintiffs' Exhibit Thirteen. I ask if you recognize that?

A: Yes, it's the deed that we signed.
Q: Is it an accurate copy of the deed of your property to you and your wife?
A: Yes, it is.
MR. SMITH: Your Honor, Plaintiffs would move to admit Plaintiffs' Exhibit Thirteen into evidence?
MR. WALKER: No objection.
THE COURT: Without objection.
(Plaintiffs' Exhibit Number Thirteen was admitted into evidence.)
Q: What's the highest grade in school you've completed?
A: I have PhD degree.
Q: In what?
A: Christian ethics.
Q: What's your current occupation?
A: I'm a bi-vocational pastor. I'm a pastor of Refuge Church and also own a business.
Q: And what business do you own?
A: KPro Products.
Q: What type of business is that?
A: It's an e-commerce business.
Q: What do you guys sell?
A: A little bit of everything.

Q: Okay. How long have you been a pastor?
A: Thirty-plus years.
Q: Are you familiar with the Lake Access Lot we've been talking about?
A: I am.
Q: And are you able to find your lot on the plat?
A: Yes, sir.
Q: Okay. If you would, use that green marker. And if you would put in green highlight your lot. Let the record show he's green highlighting the lot number four and block B. How close is your lot to the Lake Access Lot?
A: It's very close. It's diagonally across the street.
Q: Have you used the Lake Access Lot over the years before it was sold to Mr. Smith and Ms. Bell?
A: We have. Very minimally, but we have.
Q: How have you used it?
A: Basically just enjoyment of walking down to the lake.
Q: Have you seen the photograph of the outhouse that's in evidence?
A: I have.
Q: Are you familiar with that outhouse,

Plaintiffs' Exhibit Number Five?
A: I am just from road sight.
Q: Do you believe that outhouse has an effect on your property value?
A: I do.
Q: And what type of effect does it have?
A: I think again, just from the appearance. I mean, I can't state a monetary value, but just the -- you know, the feelings of the -- I think the negative image it presents to the neighborhood.
Q: If someone stood on your front porch, for example, can they see the outhouse?
A: It depends on the time of the year. But, yeah, I mean they could. Not a clear view from our house.
Q: When you're going down the public street in front of the Lake Access Lot, can you see the outhouse?
A: Oh, yeah.
Q: When you say, oh, yeah, what do you mean?
A: Yes, sir. Certainly. You go to the corner of our lot, I mean, you get a clear view of it.
Q: Do you have an opinion as to what your property's worth?

A: Approximately 300,000.
Q: And what effect, if any, do you believe the outhouse has on your property?
A: You know, again, I'm not an expert in the real estate, but my guess would be 20, $25,000.
MR. KELLY: Please answer any questions defense counsel has for you.
THE COURT: Cross.
MR. KELLY - CROSS EXAMINATION BY MR. WALKER:
Q: Mr. Kelly, is it okay if I stay seated?
A: Yes, sir.
Q: I just feel like I'm standing over people this close.
A: That' fine.
Q: You described your use of the property in the past as minimal. I'm assuming that's two or three times a year.
A: Yeah, probably.
Q: And walking on it?
A: Uh-huh (affirmative response).
Q: When you talk about the outhouse, you talked about your feelings that it creates a negative image, right?
A: Uh-huh (affirmative response).
Q: So your opinion is driven by those feelings?

A: Yes, sir.
Q: And those feelings are personal to you?
A: Yes, sir.
Q: And it's your testimony -- and the outhouse, I guess looks to be, what, six by ten? Not a big building.
A: Right.
Q: And it's your testimony that the shed that's shown in Exhibit Five that your lawyer's put in drops your property value at least $20,000?
A: Well, yeah. Again, I'm not an expert in the field, but to me just the lake access itself. You know, if you combine -- to me just the fact that I had or thought I had lake access would certainly increase the value of my property. Now, I'm not going to sit here and say that just the outhouse itself, you know, minimizes the property value that much. But just the fact that I wouldn't have lake access affects it that much.
Q: Well, and I'm -- you've kind of broadened the picture a little bit. Your lawyer asked you what impact dollar wise the outhouse had and that's what got the $20,000 answer.
A: Uh-huh (affirmative response).

Q: So now your testimony is that your property value is reduced that much by the outhouse and other things or just the outhouse?
A: I don't know how to answer the question from a monetary value. I just don't know.
Q: I understood from your answer that you feel you don't have access to the lake across this lot right now. Is that true?
A: I don't know if it's true or not. I mean, again, from a family's perspective, out of respect to Mr. Smith, I mean, I wouldn't feel comfortable using it because I know that he's the rightful owner of it right now.
Q: Well, he's never told you stay off the lot?
A: Never has. No, sir.
Q: If you had the right to come and go on foot to the lake, to the water, or to put a boat in, is that going to satisfy you that you, in fact, continue to have lake access?
A: Well, to satisfy me primarily would be to know that if I were to sell my property, that I could advertise it as lake access.
Q: But Mr. Smith and Ms. Bell have never told you you don't have access, have they?
A: That's correct. They haven't.

Q: They've never put a sign up that says no trespassing or anything like that?
A: That's correct.
Q: They never put a chain up across there to prevent people from walking or driving on the property, have they?
A: Correct.
Q: So if we solve that problem, the only thing left you're arguing about is the outhouse itself; am I right?
A: I'm not certain I understood the question.
Q: Sure. I understand your concerns to be continued access to the lake across this property and the existence of the outhouse. Those your two big issues.
A: Property values.
Q: Well, if we solve the access issue, then your only concern about impact on your value would the existence of the outhouse?
A: That would be a big part of it.
Q: And you attribute a reduction in your property values simply to the existence of this outbuilding on this property?
A: No. I'm saying is, that's a part of the whole equation.

Q: Your right -- do you understand your right to be that you have -- you and your family, owners of your lot, have the right to access the lake across this property?
A: You're saying do I understand that I do have the right?
Q: Yeah.
A: No, I don't understand that fully at this point. I don't know if I have the right or not.
Q: Do you have any objection to the construction of the fire pit and the gazebo?
A: No.
Q: Any objection to the construction of the dock?
A: Well, again, my objection would be, is just, you know, who is the rightful owners of the property? And if so, if I'm the rightful owner and I haven't had a part in making that decision to add to the property, then, yeah, I have problems.
Q: Do you ever pay any taxes on the lake access parcel?
A: No, sir.
Q: Ever try to organize a clean up day for the lake access parcel?

A: No, sir.
Q: Ever, in fact, gone down there with a piece of equipment and cleaned off the lake access parcel?
A: No, sir. I'm appreciative of Dr. Linder for his role in doing that.
Q: You live pretty much right across the street from it, so you saw the for sale go up?
A: I did see a sign.
Q: And didn't contact any of the owners of the lot at that time?
A: I didn't.
Q: And from your home, as you would come and go, you could see the construction on the lake access parcel?
A: That's correct.
Q: And as I understand it, you've never spoken to Mr. Smith and Ms. Bell about the construction when it was going on?
A: That's correct.
MR. WALKER: I don't have any more questions at this time, Judge.
THE COURT: Any redirect?
MR. SMITH: Briefly.
MR. KELLY - REDIRECT EXAMINATION BY MR. SMITH:

Q: Have the developers, the grantors or Mr. Smith or Ms. Bell ever contacted you to see if you were interested in becoming part of a homeowner's association?
A: No, sir.
Q: Or to help pay taxes?
A: No, sir.
Q: Or would help clean up the lot?
A: No, sir.
Q: Did Mr. Smith or Ms. Bell ever ask you to chip in for improvements they made on the land?
A: No, sir.
Q: Chip in to build the outhouse?
A: No, sir.
Q: Chip in to build a better dock?
A: No, sir.

MR. SMITH: That's all I have for this witness.

MR. WALKER: Nothing further, Your Honor.

THE COURT: You can step down.

MR. SMITH: Plaintiffs call Christy Bell to the stand.

THE COURT: Come forward please, be sworn.

JENNIFER CHRISTY BRABHAM (BELL), being duly sworn, testifies and examines as follows:

MS. BRABHAM - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record?
A: Jennifer Christy Brabham.
Q: Do you go by other names?
A: My name a few years ago was Christy Brabham Bell.
Q: Okay. You've been divorced in the last interim?
A: Yeah, five years.
Q: Okay. Are you married?
A: No.
Q: Do you have any children?
A: No.
Q: What's the highest grade in school that you've completed?
A: I have a master's in environmental resources management.
Q: And where did you obtain that?
A: University of South Carolina.
Q: What's your current occupation?
A: I'm an environmental consultant.
Q: Where do you currently live?
A: 201 Killian Point.
Q: How long have you lived there?
A: Since 2010.
Q: And who lives there with you?

A: Jud Smith.
Q: Are you married to Judson Smith?
A: No.
Q: I'm going to show you what's been premarked as Plaintiffs' Exhibit Fifteen. Do you recognize that deed from Judson Smith to Jennifer Christy Brabham?
A: Uh-huh (affirmative response).
Q: Is that a yes?
A: Yes. I'm sorry.
Q: Is it an accurate copy of your deed to the residence lot that you have in the subdivision?
A: Yes.
MR. SMITH: Your Honor, we move to admit Plaintiffs' Exhibit Fourteen into evidence?
THE COURT: That's Exhibit Fifteen, I believe.
MR. SMITH: I'm sorry, fifteen. Thank you.
THE COURT: Fifteen? Thank you. Without objection.
(Plaintiffs' Exhibit Number Fifteen was admitted into evidence.)
Q: On page three of that deed, that's from Judson Smith to you, correct?
A: Uh-huh (affirmative response). Yes.
Q: You have a one-half undivided interest in the residence lot; is that correct?

A: Yes.
Q: And on page three, it's got an affidavit, do you see that?
A: Yes.
Q: Under 3©), can you read what it says?
A: "Exempt from the deed recording fee because no consideration - family."
Q: Okay. Are you actually related to Judson Smith by blood or marriage?
A: No.
Q: Do you understand you would have had to pay deed taxes or deed fees?
A: No.
Q: Do you own part of the Lake Access Lot in question?
A: Yes.
Q: And how much did you pay for it?
A: 12,500.
Q: And how much did Judson Smith pay for it?
A: 12,500.
Q: For a total of?
A: 25,000.
Q: Were you involved in the negotiations to purchase that lot?
A: No.

Q: Who did the negotiation on your behalf?
A: Jud did.
Q: Did you talk with Sissy Freeman about the lot before you purchased it?
A: No.
Q: Let me show you what's been marked as Plaintiffs' Exhibit Sixteen, Title to real estate to Judson Smith and Christy Brabham Bell. Do you recognize Plaintiffs' Exhibit Sixteen?
A: Yes.
Q: What is that?
A: That is the deed for the Lake Access Lot -- actually the deed for the Lake Access Lot and the other three-acre lot.
Q: Okay. Is it an accurate copy of your deed?
A: Yes.
MR. SMITH: Your Honor, we move to admit Plaintiffs' Exhibit Sixteen into evidence.
MR. WALKER: No objection.
THE COURT: Without objection.
(Plaintiffs' Exhibit Number Sixteen was admitted into evidence.)
Q: And can you read for the record who sold you that lot?

A: Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire, George Arthur Stoudenmire, as trustee for the benefit of William B. Stoudenmire, Linda B. Stoudenmire, Stacey C. (sic) Dershaw, f/k/a Stacey William (sic) Stoudenmire and Laura Brittany Stoudenmire.

Q: Okay. Half way down the page, page one of the deed, can you read the yellow highlighted portion? It begins with this conveyance.

A: "This conveyance is made subject to easements, conditions, and restrictions of record affecting subject property."

Q: Let me show you what's been premarked, already marked and put into evidence as Exhibit Number Four, Restrictions Hilton Place Subdivision. Do you see that?

A: Uh-huh (affirmative response). Yes.

Q: And did you see those at the time you purchased the residence lot?

A: Yes, at the time of the residence lot.

Q: Okay. And you bought the residence lot before you bought the Lake Access Lot, right?

A: Yes, sir.

Q: And you discussed those with Sissy at the time

you purchased the residence lot is that true?
A: Yes.
Q: And the time you purchased the Lake Access Lot, you knew about those restrictions, correct?
A: Yes. Sissy explained to us during the closing of the residence lot that those restrictions were never enforced and that they really didn't apply.
Q: That's my next question. Did you ever obtain a legal opinion about constructing anything on the Lake Access Lot before you began building on the Lake Access Lot?
A: No.
Q: And when you purchased the Lake Access Lot, did it have a gravel and concrete ramp?
A: Yes.
Q: Before purchasing the Lake Access Lot, was there a deck next to the water?
A: Yes. I was told that it was something that floated up.
Q: And you had no personal knowledge of it though, did you?
A: Sissy told me that.
Q: And the deck went out next to the water; is that correct?

A: Uh-huh (affirmative response).
Q: It that a yes?
A: It was on the land.
Q: Was it attached to anything?
A: Huh-uh (negative response).
Q: Is that a no?
A: No. I'm sorry.
Q: That's okay. And where's that deck now?
A: That deck is now the floor of the bathroom.
Q: Okay. Is that we've been referring to as the outhouse?
A: Yes. But it's on a permitted septic tank, so I consider it the bathroom. It has running water, a toilet that flushes and goes to a septic tank.
Q: Before purchasing the lake lot, had you walked down the lake lot itself and looked around the Lake Access Lot?
A: I had walked down there.
Q: Had you floated a boat down there?
A: No. We floated a boat up, I mean, you know we were -- we put the boat in at the parking ramp that's about a quarter of a mile down the road. And we were trying to show some people our house, so we floated it up to the muck and we

just jumped out into the mud. You couldn't get to that deck that we were just talking about.
Q: Okay. Can you identify your residence lot on the plat?
A: Sure.
Q: There's a plat in front of you. Plaintiffs' Exhibit Three. I'm going to give you a yellow highlighter. Do you see the Lake Access Lot in yellow highlight?
A: Uh-huh (affirmative response).
Q: Is that a yes?
A: Yes.
Q: And can you identify your residence lot?
A: Yes.
Q: Just fill it in so we can see what it looks like. Let's talk about the Lake Access Lot for a moment. Does it have electricity?
A: Yes.
Q: How many televisions does it have?
A: None right now. I'm sorry. It has one. It has one.
Q: At the time I took your deposition, it had two, right?
A: Well, there was one that we moved down there for football games, so it's not like a

permanent TV.
Q: So do you move a big one down there for football games?
A: Uh-huh (affirmative response). Yes.
Q: And why do you do that?
A: To watch football games.
Q: Okay. Do you have parties down there for football games?
A: We do.
Q: Is there a fire pit down there?
A: There is.
Q: And do you recall when I took your deposition, you had just been to the Lake Access Lot the previous Saturday for a party?
A: Yes.
Q: Okay. And during that party you had about 10 guests?
A: Yes.
Q: And you guys were all drinking alcohol?
A: Not everyone, no.
Q: Okay. There was alcohol at the party?
A: Oh, sure. Lots of people drink water and coke.
Q: Okay. Did you have a party July 4th weekend?
A: No.
Q: No parties down there then?

A: No. The party I think that she is referring to was in June. And it was a family reunion on -- I think it was a Saturday.
Q: Whose family?
A: Ours.
Q: Yours or --
A: Jud's family. He is one of 14, so it was a lot of people there. It lasted from about 2:00 to about 4:00.
Q: Okay.
A: And it was actually at our house, but we did have people walk down there.
Q: Do you agree that others can use the gazebo?
A: No, I don't.
Q: Okay. Why is that?
A: Because it is not part of lake access. You don't need the gazebo to get to the lake.
Q: Okay. Show me the document, if you know of one, where it limits my clients only to ingress and egress to the lake.
A: I don't have that.
Q: You ever seen one?
A: No. I've never seen one that says they can have access to the gazebo.
Q: If you would, turn to Exhibit Two, which is in

front of you. Exhibit Two is a deed. Do you see Ms. --

A: Snow.

Q: Yes.

A: Bell.

Q: And if you turn to page number two, do you see the highlighted portion at the top?

A: I do.

Q: Can you read that?

A: It says, "Also conveyed herewith is an easement for the use and enjoyment by the lot owner and the lot owners immediate family to the Lake Access Lot shown on the recorded subdivision lot."

Q: Does it say anywhere on there that she's restricted only to ingress and egress to the lake?

A: No.

Q: Is it okay with you that if the Court rules the toilet can stay, that other homeowners can use the toilet too, as you refer to it?

A: No, I don't. They don't take care of it. They're not going to clean it. They're not going to clean the toilet, clean the bathroom.

Q: Did you help pay for that?

A: Absolutely.
Q: Okay. Which of my clients, which of the Plaintiffs did you contact to ask them to help pay for it?
A: I didn't contact anyone.
Q: Did you contact any of the Plaintiffs in this case to get their consent or their input on whether or not anything could be built on that lot?
A: No.
Q: Is it okay with you if my Plaintiffs use all your docks there?
A: No.
Q: Okay. So is it your position they can go to and from the lake on the concrete and gravel ramp?
A: Yes.
Q: But they can't do anything else?
A: No. The dock and the deck are on our other lot. That's the three-acre lot adjacent to the Lake Access Lot.
Q: Are you using the Lake Access Lot for private residential purposes?
A: No.
Q: You spend the night there?

A: No.
Q: You have a bed there?
A: No.
Q: Have you seen any other property or land in this subdivision with an outhouse or bathroom, similar to the one you have?
A: There's a lot of sheds in the neighborhood, so they could have. There's similar sheds, I guess. And they could have a bathroom in them.
Q: Do you know if they have a bathroom in them?
A: I don't know.
Q: Okay. So can you identify here, while you testify under oath, any other shed that has a bathroom in it?
A: Say that again.
Q: Can you identify any other shed that has a bathroom in it?
A: Oh, I'm not aware of any.
Q: You never asked the sellers for consent to build on the Lake Access Lot; is that true?
A: That's true.
Q: And the sellers -- at least at the time I took your deposition, the sellers had never given you consent for anything to be built on the

Lake Access Lot, true?

A: True. Like I said, when we bought our residential lot, they said that the restrictions -- because we asked about the restrictions of the size of the home. And we were told the restrictions didn't apply because they were never enforced.

Q: And who told you that again?

A: Sissy Freeman.

Q: Okay. Is that Valiska Freeman, do you know?

A: Yes.

MR. SMITH: Please answer any questions defense counsel has.

THE COURT: Mr. Walker.

MS. BRABHAM - CROSS EXAMINATION BY MR. WALKER:

Q: Ms. Brabham, right now there's nothing physically preventing any of the people in the courtroom from walking down to the lake, right?

A: Right.

Q: There's nothing physically preventing them from taking a trailer and a boat and putting the boat in at the ramp on the access lot, right?

A: Correct.

Q: The construction that took place initially, did it occasionally block the road down to the

ramp?

A: Sure, while we were doing the construction. I'm sure it was blocked at times.

Q: But nobody ever came and said please move that so I can --

A: Absolutely not.

Q: You've mentioned your conversation at the closing of your residence lot about whether or not you needed permission to build, right?

A: Right.

Q: The construction that did take place during the time you were building the -- during the time that the gazebo was installed, did anybody come up and say stop, you can't do that?

A: No.

Q: During the time the fire pit was being built and constructed, did anybody come up and tell you you can't do that?

A: Absolutely not. And actually our neighbor, and I'm sorry I don't know her last name, Mary, who lives across the street from us, actually gave us a bottle of champagne saying congratulations --

MR. SMITH: Objection. Hearsay.

A: -- you did such a great job.

THE COURT: Hold on. She said -- what do you object, which part are you objecting to?

MR. SMITH: One of the neighbors told her something.

THE WITNESS: No. She gave me a bottle of champagne.

MR. SMITH: And then you went on -- the witness went on to say she told me X.

THE COURT: Okay. All right. I'm not trying to elicit that response. I simply wanted to find out if anybody stopped -- it would be hearsay what she said, not what she did.

Q: During the time the bathroom building was being constructed, nobody came up and said stop, you can't do that?

A: No.

Q: During the time the deck was being built, did anybody come up and say stop, you can't do that?

A: No. I don't know if I can say this. I was sent a letter from Ms. Gehlken for the Leukemia Society. Can I say that. She mailed it to me directly. So, I'm just saying, I mean she had contact with me. She said that she didn't have contact. She did have contact. And I mailed her back a check for the Leukemia Society.

MR. WALKER: Your Honor, I've got a set of photographs, we'll mark collectively as Defendants' Exhibit Two, if that's okay?

THE COURT: Two. And I'll apologize, Walgreens, believe it or not, the machine broke yesterday and it was last night before I got my pictures, so I don't have extra copies for the Court.

MR. SMITH: No objection.

THE COURT: Thank you.

(Defendants' Exhibit Number Two was marked and admitted into evidence.)

Q: Ms. Brabham, I'm going to hand you what's been marked as Exhibit Two. Are you familiar with those photographs?

A: I am.

Q: Can you just generally -- and there's several of them.

THE COURT: Will you just -- how many are there? Just for the record say how pictures there actually are.

THE WITNESS: There are 10 pages -- I mean, I'm sorry, 10 photographs on eight pages.

THE COURT: Okay.

Q: And what's depicted in the photographs?

A: This particular picture is the gazebo and the

deck. And this is actually where the TV that Mr. Smith was asking me about. It's inside.

Q: Does this collection of pictures show the judge the improvements that have been made on the property?

A: Absolutely.

Q: All right. And if you just rattle them off for him briefly so --

A: The first one is the gazebo and the deck. The second is the ramp and it shows where we added onto it. It shows the original gravel and concrete ramp and then what we've extended. The third is the fire pit. The fourth is the bathroom with plumbed water and sewer. And then the -- on the fourth page there's two pictures just showing kind of a panoramic -- I was standing in the middle of the driveway taking a panoramic of the Lake Access Lot after I cut the grass because it looked nice. It's got the interior of the gazebo, the furniture that we have inside. We've got some photographs of the floating dock and the deck. And finally we have a picture of Steve Linder's fence that is actually on our -- it crosses the property line and it's on the Lake Access Lot.

Q: You mentioned installing plumbing for the bathroom. Did you get a permit for it?
A: We did.
Q: Who did you get it from?
A: SCE&G.
Q: And I probably miss-spoke. Waste disposal for the bathroom.
A: The waste disposal, we also had a permit for the septic tank system. And that's through South Carolina DHEC. But we have a permit through SCE&G for the water.
Q: Did you get a permit for the dock?
A: We did.
MR. SMITH: Objection. Best evidence rule. If they want to talk permits, the best evidence for the permits are the permits themselves.
THE COURT: Be three and four.
MR. WALKER: Yes, sir. And it doesn't matter which is which.
THE COURT: Any objection?
MR. SMITH: No objection.
(Defendants' Exhibit Numbers Three and Four were marked and admitted into evidence.)
Q: Ms. Bell, I'm going to hand you what's been marked as Defendant's Exhibit Three. Is that

the permit you got from SCE&G to construct the dock?

A: Yes.

Q: Did you construct the dock in conformance with the permit?

A: Yes.

Q: I'm going to hand what's been marked as Exhibit Four. Is that the DHEC permit for your waste disposal system on the Lake Access Lot?

A: Yes, sir.

Q: And we'll talk more about that in a minute. All these improvements you and Mr. Smith paid for?

A: Yes.

Q: Did you kind of keep an accounting as you went along?

A: I did.

Q: Did y'all kind of settle up at the end?

A: We did. We settled up a couple of times.

MR. WALKER: And, Your Honor, if we could go off the record.

THE COURT: Yeah. Come up.

(Off the Record)

THE COURT: We're back on the record.

Q: We've talked today about others in the

subdivision having access to the lake across the lot, right?

A: Yes.

Q: If they have access to your fire pit and your gazebo and your bathroom, is that more burdensome on you than if they just have access to come and go?

A: Yes.

Q: Explain that to the judge.

A: Well, I mean you said it earlier, wear and tear, but also we pay insurance. We have homeowners insurance or our homeowners insurance covers that lake lot. And we -- but certainly wear and tear. There's a fire pit. Obviously, we have to use major precautions with that. We have a water hose right there for that purpose. But I would be worried if other people use that, if kids were unsupervised down there. I've already talked about the cleaning. I'm a neat freak, so that would bother me, because I would want it to be cleaned every time somebody walked on it.

Q: Can you tell the judge about the condition of the Lake Access Lot when you first purchased an interest in it?

A: It was very overgrown. We didn't even know it at the time, but if you're looking at it from the street, the left side was completely covered in construction debris. And we were told by several neighbors --

Q: And I don't want you getting into what other people told you.

A: Okay. We just found construction debris and trash, probably 8 feet tall and probably 50 feet in diameter. We had to use really, really heavy equipment. We had a backhoe or trackhoe. I'm sorry I don't know which one. It took about a week of time to actually level that part out, because it was so deep.

Q: Who owned that equipment?

A: Jud owned one piece of equipment. And then we had to hire somebody, Mike, for that equipment.

Q: How did you get the trash off the property?

A: We had to haul it off. And we spread some of it. And used some of it as landscaping, some of the big rocks.

MR. WALKER: And, Your Honor, I have Exhibits Five, Six and Seven. Exhibit Five is a plat prepared for Judson P. Smith. Six is a document from Lexington County. It depicts the Lake Access

Lot. And Exhibit Seven is a document from Lexington County that depicts, what I call lot number two, which is the additional property purchased by Defendants Smith and Brabham.

THE COURT: Thank you.

MR. SMITH: No objection.

THE COURT: Without objection.

(Defendants' Exhibit Numbers Five, Six and Seven were marked and admitted into evidence.)

Q: And I'm going to hand you what's been marked as Defendants' Exhibit Five, is that a copy of the plat that was prepared when you and Mr. Smith purchased the lake access parcel?

A: Yes.

Q: And it depicts easements. It depicts a road, a gravel road on the property, right?

A: It does.

Q: Does it show any encroachment of a deck or anything down near the water line?

A: No.

Q: And I'm going to hand you what's been marked as Exhibit Six. And does that depict the improvements -- this is an aerial. Does it show the improvements you and Mr. Smith have made?

A: Yes, it does.
Q: Does it -- are you familiar with where the property line is on the ground for the lake access parcel?
A: Yes. There are stakes.
Q: But you personally know where they are?
A: I do.
Q: Does this Exhibit Six correctly depict the location, the property line for the lake access parcel?
A: Yes, it does.
Q: Is the deck on the water on or off the lake access parcel?
A: It's off.
Q: Is the deck on or off the lake access parcel?
A: It's off.
Q: I'm going to hand what's been marked as Exhibit Seven. Does that depict the boundaries of what I call lot number two that was additional property you and Mr. Smith purchased?
A: Yes.
Q: You heard Ms. McDaniel talk about an odor she says she experienced on July 4th of this year. Did y'all have a party on lake access parcel on July 4th?

A: No, we did not. We went out on the lake, but it was four of us.
Q: You said y'all had a DHEC permit and built a waste disposal system, please explain to the judge what's underground out there and how it works?
A: Well, there's a thousand gallon concrete septic tank that was installed by Sharpe's Plumbing. And I'm not sure of the footage, but I think there's 50 feet of drain line. And the way that the septic tank works is, water and sludge go in. And when it gets full enough, you might have some water come back out. But with a thousand gallon tank, in this case, probably wouldn't even have any going into the drain field.
Q: Y'all got a toilet in the bathroom?
A: We do.
Q: How many gallons of flush?
A: I think it's half gallon per flush.
Q: And your tanks how big?
A: It's a 1,000 gallon tank.
Q: Are you aware of any way odor can escape from your system?
A: Absolutely not. It's the same size tank that

we have in our home, because we also have a septic tank at our home. We have three bathrooms, four bathrooms in our home.

Q: You heard my conversation with Mr. Linder about the conversation he had with you?

A: Yes.

Q: Tell the judge about it.

A: Mr. Linder was speaking to Jud and I -- actually he was in his yard yelling to us and we couldn't understand him, so we asked him to come closer so we could have a conversation like adults. And during that conversation, he asked me -- or told me, I guess -- he made the statement that he knows that I've been stalking him. And I said, what are you talking about? And I think I smiled when he said it. And he said you've been at my office. I have photographic evidence that you were walking around my office. What were you doing? You were wearing a baseball cap. And I said, where is your office? And he said, you know exactly where my office is. And I asked him again, where is your office? And then he told me where it is. And, I mean, that was it. And he said I'm keeping my eye on you, I know you were

there.

Q: Is there another place near the subdivision where you can put a boat in?

A: Yes. About I'll say a half a mile, quarter mile away, there is the Lexington County parking ramp. It's an extremely nice parking ramp.

MR. WALKER: Your Honor, Defendants are tendering into evidence Exhibits Eight and Nine, which are two photographs that we'll discuss with the witness.

MR. SMITH: No objection.

THE COURT: Without objection.

(Defendants' Exhibit Numbers Eight and Nine were marked and admitted into evidence.)

Q: Ms. Brabham, what's showing on Exhibit Eight?

A: This is a concrete block building. It's like a social club. It's kind of near the entrance of our neighborhood. It's directly across the street from Steve Wonder's property.

Q: You've heard a lot of testimony about everybody's all upset about appearances and people have been asked their opinions. What's your opinion of the appearance of that place?

A: It's horrible. And this photograph does not

show all the grown up ditches and frontage area on this lot. It's pretty ugly.

Q: And what's depicted in Exhibit Nine?

A: This is the house that is on Killian Point, actually across the street from Steve's lot and across the street from this social club that you also drive by to enter into the, quote, neighborhood.

Q: I want to briefly touch on noise. There's been testimony that could infer that noise from the lot was excessive. I mean, what have y'all done on the lot that would be loudest thing that's gone on out there?

A: I think the loudest thing we would have done was watch a football game and we holler when the Gamecocks score.

Q: Okay. Do you hear any other hollering in the neighborhood when the Gamecocks score?

A: Oh, yeah. The people on Big Thursday, there's a couple of them that watch games I guess out of their deck or they're outside because they hoot and holler too.

MR. WALKER: I don't have any more questions, Judge.

THE COURT: Redirect.

MR. SMITH: May it please the Court. Several new

matters.

MS. BRABHAM - REDIRECT EXAMINATION BY MR. SMITH:

Q: Do you know who Chrissie Campitella is now?

A: Yes.

Q: Okay. While you guys were constructed or before you began constructing, did you have a conversation with her?

A: Yes.

Q: And tell the Judge about that?

A: Chrissie Campitella stopped me. I actually just bought a dog, our new dog home. That was the first day that I was walking him. And she stopped me when I was walking by the Lake Access Lot and asked me to give her card to Judson because she wanted to buy into the Lake Access Lot so that she would not have to hire an attorney.

Q: And did you return her call?

A: I gave her card to Jud as instructed.

Q: Do you know what happened then?

A: I don't.

Q: Okay. Did she hire an attorney?

A: Apparently.

Q: Okay. Earlier we were talking about the deck and the gazebo and the outhouse construction.

Do you guys have permits for those?
A: I'm sorry say again.
Q: Did you have permits to construct the deck, the gazebo and/or the outhouse?
A: I have a septic tank permit, but no, no structure permits.
Q: Okay. So if you didn't apply for a permit, then did you notify my clients that you were about to build those before you began to build?
A: No.
Q: So how were my clients suppose to know that you're about to build those things if you don't apply for a permit and you don't tell them you're about to build?
A: We applied for an electric permit as required.
Q: But not for the deck construction, gazebo construction or outhouse construction, correct?
A: That was prior to all of that. The electric permit was prior to all of that.
Q: And when did Chrissie Campitella -- what time of the year, what date and month, what time did Chrissie Campitella drive by and give you that card, when did that incident occur?
A: I think it was in the spring. I brought A.J. home in April of 2011 maybe.

Q: Spring 2011. Were those items already constructed?
A: No.
Q: Okay. So in April 2011, they're not constructed yet, correct?
A: I think that's the right date.
Q: Okay. And I'll show you the complaint, the summons in this case. Can you see it's dated August 8, 2011?
A: Uh-huh (affirmative response).
Q: Is that a yes?
A: Yes.
Q: And so, when you look at Defendants' Exhibit Number Three, waste disposal, what's the date on that? On the permits your attorney showed to you. It should be here.
A: This one?
Q: Yeah. What's the date on that?
A: Dock permit?
Q: Yeah.
A: February of 2011.
Q: Okay. And for Exhibit Number Six what's the date? I'm sorry, I apologize, Exhibit Number Four. Three and four are the permits. The DHEC permit.

A: August 2011.
Q: August 15, 2011?
A: Yes.
Q: That's even after the Summons and Complaint's filed in this case, right?
A: I guess by the time this was actually sent back to us, yes. Not by the time we had submitted the application.
Q: So you didn't even get the permit from DHEC until a week or so after the Summons and Complaint's filed, correct?
A: I guess, yes.
Q: And then you began to build?
A: Yes. Now, at this point the gazebo was already built and the septic tank. The gazebo and probably some of the fire pit was already built.
Q: But you didn't notify my clients that you were either applying for a permit to build those or actually you were going to start building those, correct?
A: No.
Q: Is that correct?
A: Yes.
Q: Thank you. You know what I want to look -- I

want to Defendants' Exhibit Five, which is the plat or the survey that your attorney put in evidence.

A: Okay.

Q: Is that the plat or permit that you and Judson Smith had prepared?

A: Yes.

Q: Okay. And it was produced on July 14, 2010, correct?

A: Yes.

Q: Okay. Show me on here where it says there's only an easement for ingress and egress from other?

(Interruption)

THE COURT: Would you re-ask the question again, please?

Q: Yes, we're looking at the survey that you and Judson Smith had prepared for the Lake Access Lot, correct?

A: Yes.

Q: It was prepared July 14, 2010, correct?

A: Yes.

Q: Show me on here where it says there's an easement only for ingress and egress?

A: I don't see any easement.

Q: Let's look at the plat that was recorded, Plaintiffs' Exhibit Number Three. Where on there does it show that there's an easement only for ingress and egress?
A: I do not see any easement.
Q: Even as today, have you asked the Plaintiffs or others in the neighborhood to chip in and help pay for the fire pit, gazebo, or outhouse?
A: No.
Q: Did you ever contact anyone to ask if they wanted to form a homeowner's association to help take care of the costs associated with the Lake Access Lot?
A: No.
Q: Why not?
A: Because we didn't. Why would I?
Q: Have you seen the Buzz Mathis letter of January 2011?
A: No.
Q: There's a couple of photographs you have of the things that your counsel put in right at the end of his cross exam, a couple of houses?
A: Yes.

MR. SMITH: Do you have those?
Q: Let's look at Defendants' Exhibit Eight and Nine. On either one of these, do you have any knowledge that any of the Plaintiffs own those?
A: No, I don't have any knowledge of that.
Q: Are those in the subdivision?
A: I don't know. I don't think so, no.
Q: So to your knowledge, my Plaintiffs have no control over those, correct?
A: Right.
Q: Is the thing that you're saying is wrong with those photos is that they're ugly?
A: Well, I was just pointing out the noise from the social club, whatever this thing, this place is. They have parties about, I don't know, once a week, twice a week.
Q: Did they have those before you moved into the neighborhood?
A: Yes.
Q: So, you didn't actually --
A: I assume. I don't know before I moved into the neighborhood.
Q: Okay. When's the first time you had noticed that there's parties there?

A: I guess I moved in April 2010.
Q: And when did you first learn there's parties there?
A: I guess April 2010.
Q: Did you ever complain about them?
A: Huh-uh (negative response).
Q: Is that a yes or no?
A: No.
Q: Did you ever try to do anything about them?
A: No. Absolutely not. Doesn't bother me.
MR. SMITH: That's all the questions I have.
MR. WALKER: No further questions, Your Honor.
THE COURT: All right. You can step down.
MR. WALKER: Your Honor, we would both be grateful if we catch our breath and take a short break.
THE COURT: Okay. When you want to come back. It's 11:30. You want 15 minutes, ten?
MR. WALKER: Yes, sir.
THE COURT: All right. We'll stay in recessed until 11:45. I'll advise everybody if you've testified, you're still under oath. You're subject to being recalled and testify, so don't talk to anybody about your testimony.
MR. WALKER: Thank you, Your Honor.

THE COURT: Thank you.

(Off the Record)

THE COURT: Everyone please be seated.

MR. WALKER: Your Honor, the lawyers have talked and --

THE COURT: Hold on one second.

MR. WALKER: We can do this off the record if it's okay.

THE COURT: Okay.

(Off the Record)

THE COURT: Yes, sir.

MR. SMITH: May it please the Court? Plaintiffs call as our next witness, Valiska "Sissy" Freeman.

THE COURT: Come forward and be sworn, please.

VALISKA FREEMAN, being duly sworn, testifies and examines as follows:

MS. FREEMAN - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record.

A: My name is Valiska Coleman Freeman.

Q: Do you have a name you go by?

A: I have a nickname of Sissy.

Q: Okay. Do most folks call you Sissy?

A: Some. My family. Uh-huh (affirmative response). I'm know as Sissy.

Q: And you're a defendant in this case, correct?

A: Yes, I am.
Q: What's the highest grade in school you completed?
A: Two years of college.
Q: And where did you attend college?
A: University of South Carolina.
Q: And what did you study while you in college?
A: Education.
Q: What's your current job?
A: I'm a corporate secretary and office manager of Coleman Construction Company.
Q: Okay. Who's your father?
A: Charles S. Coleman, Sr.
Q: Is he the individual we've talked about today being one of the original developers or grantors?
A: Yes.
Q: Okay. And have you worked there for the last 32 years or so?
A: Yes.
Q: Okay.
A: About 34 years.
Q: Are you married?
A: Yes, I am.
Q: And to whom are you married?

A: Tommy Freeman.
Q: And what year did you get married?
A: I got married in 1979.
Q: Did you come to own a Lake Access Lot at some point, part of it?
A: It was -- I was -- my -- yes.
Q: Inherited?
A: Yes.
Q: Did you also come to own a residential lot in Hilton Place subdivision after your father passed?
A: It was before. I had a lot. We built before my father passed.
Q: What year did he pass?
A: He passed in 1991.
Q: And did you own the lot that Judson Smith now calls his home?
A: Yes, I was part-owner. It's Coleman & Stoudenmire.
Q: Okay. And did you guys sell that to Judson Smith?
A: Yes.
Q: In about 2008?
A: I think it -- I don't remember the year, but I thought it was 2010.

Q: Okay.
A: Maybe it's 2008.
Q: Do you remember selling the Lake Access Lot?
A: Yes, I do.
Q: Okay. Was that 2010?
A: Maybe, yes.
Q: And did you sell the residential lot to Judson Smith before you sold the Lake Access Lot?
A: Yes.
Q: And on the residential lot you sold to Judson Smith, you and your siblings and the other heirs, the residential lot you sold, was that the last residential lot you guys owned in the subdivision?
A: Yes.
Q: Okay. And the Lake Access Lot that you sold to Mr. Smith and Ms. Bell in 2010, was that the last lot of any kind that you and the other heirs owned in the subdivision?
A: Yes.
Q: Where do you live?
A: I live at 205 Killian Point Road.
Q: How long have you been there?
A: Since 1988.

Q: Is that in Hilton Place subdivision?
A: Yes, it is.
Q: You moved there in 1988 or so?
A: Yes. We built our house.
Q: And do you have a brother by the name of Jake?
A: Yes, I do.
Q: And did he also live there for a period of time?
A: He lived two blocks over, yes, he did. He lived on block D.
Q: Okay. And did you and brother obtain your lots from your father?
A: Yes, we did.
Q: Charles Coleman, Sr.?
A: Yes, we did.
Q: And Mr. Sr., was he one of the developers of the subdivision along with Stoudenmire?
A: Yes, he was.
Q: Let's look at Plaintiffs' Exhibit Three for a second. It's the plat. Are you familiar with Plaintiffs' Exhibit Number Three?
A: Yes.
Q: Have you seen it before?
A: Yes, I have.

Q: And when's the first year, more or less, when you saw it?
A: When we built our house.
Q: Okay. And what year did you build that?
A: 1988.
Q: Okay. And which lot do you live on, can you put that in yellow highlight?
A: I can.
Q: Do you live next door to Mr. Smith and Ms. Bell?
A: Yes, I do.
Q: Okay. And you recognize the yellow highlighted Lake Access Lot in there?
A: Yes, I do.
Q: And you have lot 2, block C; is that correct?
A: That's correct.
Q: Okay. Let me show you what's been marked as Plaintiffs' Exhibit Number Two. You remember this deed we looked at during your deposition?
A: Yes.
Q: The deed of Elizabeth S. Bell, who is now Elizabeth Snow?
A: That's correct.
Q: And you recall looking at the highlighted

portion on page two?
A: Yes.
Q: Okay. And do you agree that nothing on there restricts her use of the Lake Access Lot only to ingress and egress?
A: I just know that was the intent.
Q: My question is, do you see anything on there that restricts her use of that lot only to ingress and egress?
A: No.
Q: And as we look at the plat, Plat Book 194-G, September 19, 1983, do you see anything on the Lake Access Lot indicating there's an easement only for ingress and egress?
A: No.
Q: Let me show you what's been premarked as Exhibit Eighteen A, entitled Hilton Place Community Association, Plaintiffs' Exhibit Eighteen A. Do you see that?
A: Yes, I do.
Q: You've seen that before?
A: Yes, I have.
Q: And you recognize that exhibit, don't you?
A: Yes, I do.
Q: Did you attend a meeting of the Hilton Place

Community Association in 1992?
A: Does this say 1992?
Q: Let's look on page two for a minute. See page two, paragraph two?
A: Yes.
Q: And so my question is, did you attend a meeting of the Hilton Place Community Association in 1992?
A: Yes.
Q: Is that the accurate copy of the minutes from that meeting?
A: Yes.
MR. SMITH: Your Honor, we would offer this into evidence as Plaintiffs' Exhibit Eighteen A.
MR. WALKER: No objection.
THE COURT: Without objection, Eighteen A.
(Plaintiffs' Exhibit Number Eighteen A was admitted into evidence.)
Q: So let's look at the docket on the first page. On the first page does it list the members who attended?
A: Yes, it does.
Q: And did you and your husband attend that meeting?
A: Yes, we did.

Q: And it says Jake and Susie Coleman attended that meeting, correct?
A: That's correct.
Q: Who is Jake and Susie Coleman?
A: That's my brother and his wife.
Q: Was this the first meeting or do you know?
A: I don't remember.
Q: Let's go down the first page. Let's go down to the next to the last paragraph. Can you read the first sentence for me?
A: "The goal at this point is to use our own resources to clean the lake access area."
Q: Stop right there. When you say your own resources, what does that mean?
A: Well, I would think who members of the homeowner's association.
Q: Was there an actual homeowner's association in place?
A: Well, it says it was. It says it has been formed.
Q: Okay. Were you there when it was formed?
A: Yes.
Q: What happened to it?
A: Well, my knowledge was it was formed and some of the members found out they were going to

have to pay taxes on it, so they disbanded.
Q: Okay. Pay taxes on what?
A: The access lot.
Q: And who owned the Lake Access Lot in 1992?
A: Charles S. Coleman and E. L. Stoudenmire.
Q: Who owned that in 2006?
A: The heirs of Charles S. Coleman and E. L. Stoudenmire.
Q: And who owned it and sold it to Judson Smith and Christy Bell?
A: The heirs of Charles S. Coleman E. L. Stoudenmire.
Q: That includes you, correct?
A: Yes, I'm an heir.
Q: Wouldn't you agree that the owners of the lot were responsible for any taxes?
A: Yes.
Q: Wouldn't you agree that when you became an heir, you became an owner of the lot?
A: Yes.
Q: And you were responsible for paying taxes?
A: Yes.
Q: And you were responsible for keeping up the lot?
A: I don't know about keeping up the lot. I

mean, the lot -- you could and go on the access lot.

Q: If the owners not suppose to pay to keep up the lot, who is?

A: Well, the homeowner's association members should have.

Q: The homeowner's association is not required by any master deed, is it?

A: No.

Q: There's no master deed in this case, is there?

A: No.

Q: And there's no requirement that anyone join the homeowner's association, correct?

A: No.

Q: So in 1992, as we look at the highlighted portion, you read the first sentence next to the last paragraph. Read the next sentence, please?

A: We will then make plans to improve the area as our resources allow.

Q: Okay. What's the next sentence?

A: Members have expressed an interest in improving the area to make it safe for swimming and building a play area and picnic

area for the families.
Q: So back in 1992, was swimming and playing and picnicking, were those activities that were performed on the Lake Access Lot?
A: Yes.
Q: At some point did folks stopped picnicking and folks stopped swimming on the Lake Access Lot?
A: Nobody ever picnicked on this lot. This was just to -- nobody ever picnicked on it.
Q: Okay. If you would, read the next sentence beginning with members.
A: "Members also plan to provide some landscaping."
Q: Did they ever provide any landscaping?
A: No.
Q: Okay. Could you read the next sentence?
A: "Indian Fork and Cedar Cove have very nice common areas."
Q: Okay. And is that common area, does that refer to the Lake Access Lot?
A: Lake access is Lake Access Lot.
Q: My question is, does the common area referred to on page one refer to the Lake Access Lot?
A: No, they're talking common areas to Indian

Fork and Cedar Cover. It says Indian Fork and Cedar Cove have very nice common areas.

Q: Okay. And when it says common areas there, does it also refer to the Lake Access Lot?

A: No.

Q: Okay. Let's look on the next page. Did you work with your dad for 32 years or so?

A: Well, until he died.

Q: Okay. And was it his intent to make the Lake Access Lot a common area?

MR. WALKER: Object to the form

THE COURT: All right. Hold on.

MR. WALKER: It's a leading question, Judge.

THE COURT: Will you rephrase your question?

Q: Sure. Do you know what your father's intent was regarding the lake access area?

A: It was the lake access to come and go, to access Lake Murray.

Q: Is that written in any document?

A: No, but that was his intent.

Q: And did you ever talk about or was his intent to ever make it a common area?

A: It was a lake access and a lake access is a lake access.

Q: Is that a yes or no?

A: Well, I think a lake access and common area are the same thing in my opinion.
Q: The Lake Access Lot and common area are the same thing?
A: It's just a lake access. That's all I can say.
MR. SMITH: Your Honor, may I provide the witness a copy of her sealed deposition?
THE COURT: Sure.
Q: I'm going to ask you to turn to page 10, all your question being on line 22.
MR. SMITH: Your Honor, would you like a copy of the deposition?
THE COURT: I'll listen to it, but I'm assuming that this was a deposition that she took.
MR. SMITH: Party deposition.
THE COURT: So you understand what you're reading? He's handed you your deposition?
THE WITNESS: Yes. I understand.
Q: Page 10, line 22. My question to you, was the lake access area intended to be a common area for all the homeowners in the association? What was your answer?
A: For the off lake property owners. This property had four blocks. Block A, which is

lake, I mean, the lake owners, lake front. Block B, C, and D are off lake property owners. And that's what it was intended for them to access Lake Murray through this lot, not to own it.

Q: And who was intended to own it, developer?

A: Yes.

Q: Okay.

A: It was intended for the homeowner's association to be formed and he was going to deed that property to the homeowner's association. And that's what it was for. Lake front had lake access. Off lake property owners had the lake access to and from.

Q: And previously when we talked about Exhibit Eighteen A, next to the last paragraph, it says Indian Fork and Cedar Cove have very nice common areas. Was it y'all's intent to make or to treat this as a common area?

A: It was a lake access.

Q: Please turn to page six of your deposition. I'll read the question beginning on line eight. Are you ready?

A: Yes.

Q: Okay. My question, okay. And when it refers on page two, second paragraph, to clean the common area, does that mean the Lake Access Lot? What's your answer?
A: The lake access. Uh-huh (affirmative response).
Q: Okay. My question to you, is that a yes. What was your answer?
A: I said yes.
Q: Did you or your father intend to form a homeowner's association?
A: No. My father did not.
Q: Turn to page 41 of your deposition, please. I'll read the question again on line four. Are you there?
A: Yes, I am.
Q: Well, your dad intended a homeowner's association, correct? What was your answer, please?
A: That's right. And I thought we did.
Q: Did you testify under oath on this day?
A: I did, but I was extremely nervous. I had never been in a situation like this.
Q: Did you testify under oath that day?
A: Yes, I did. And you were making me nervous.

I'm sorry, Judge, I was nervous.
Q: You nervous now?
A: Yes, I am.
Q: Did you tell the truth during your deposition?
A: I always tell the truth.
Q: Since 1991, have you or your parents or your siblings done anything to clean or arrange or to have clean the Lake Access Lot?
A: No.
Q: Isn't it true that nobody was to suppose to own, because it's suppose to be for the common use of all off lake owners?
A: Repeat that question.
Q: Isn't it true that nobody was to suppose to own it outright, because it was supposed to be for the common use of all off lake owners?
A: That's --
MR. WALKER: Object to the form.
Q: From the time your father passed away -- or your mother, she was after your father, from then until your siblings and the Stoudenmires sold the property, who paid the property taxes?
A: It was half Stoudenmires, half Colemans.

Q: And did you and the other heirs decide to sell the Lake Access Lot because you were paying property taxes on it?
A: Yes.
Q: You got tired of paying taxes, right?
A: Yes, I did.
Q: Did you understand that you had a duty to the homeowners?
MR. WALKER: Object to the form.
THE COURT: All right. Hold --
MR. WALKER: It's leading and it calls for a legal conclusion.
THE COURT: I'm going to sustain that. That's argument.
Q: Before you decided to sell the Lake Access Lot, did you or any of the other siblings, to your knowledge, notify the homeowners that you were thinking about selling?
A: No.
Q: Before you and the heirs sold the Lake Access Lot to Mr. Smith and Ms. Bell, did you ask any of the homeowners about the extent of their use on the Lake Access Lot?
A: No.
Q: The original sales price for the Lake Access

Lot, 110,000, correct?
A: I think that's what it was listed for at the beginning.
Q: Okay. You sold it for 25,000?
A: That's correct.
Q: And you approved that 25,000 sales price?
A: Yes, I did.
Q: Along with the other heirs?
A: Yes, that's correct.
Q: Let me show you what's been marked as Plaintiffs' Exhibit Seventeen, which is a sales order. Do you recognize that?
A: Yes, I do.
Q: Is that the sales contract where the heirs sold the property to Jud Smith and Ms. Bell?
A: That's correct.
Q: Let's look at the sales contract. Let's look at page four of five. Do you see Contingencies?
A: Yes.
Q: And can you read the contingencies for the Court?
A: "Buyer shall have the right to cancel this agreement without penalty (to include" -- I don't know what that -- "to include" --

Q: Is that return?
A: --"return of earnest money) by June 30, 2010, after consultation with buyer's attorney and/or insurance carrier regarding potential liability."
Q: Okay. Did you actually negotiate this contract on behalf of the heirs?
A: No, I did not.
Q: Okay. But you knew what the potential liability was?
A: Yes.
Q: And tell the judge what the potential liability was when you signed this contract.
A: I didn't think it was a liability.
Q: Tell the judge what you're thinking first and you can explain.
A: I really don't know.
Q: Okay. Turn to page 30 of your deposition. I'll begin reading the questions on line four. Are you there?
A: Yes, I am.
Q: Question, page 30, line four, question. Okay. Would you agree that the potential liability issue is whether or not other property owners have a legal right to use

that Lake Access Lot for other purposes? What was your answer?

A: My answer was, well, I guess that's what it means, yes.

Q: Question, is that what you thought at the time it was signed?

A: Yes.

Q: At the closing when you sold the Lake Access Lot to Judson Smith and Ms. Bell, did you or the other sellers inform Mr. Smith that he and Ms. Bell could build structures on the lot?

A: Yes.

Q: And you're familiar with the restrictions in the neighborhood, right?

A: Yes.

Q: Let's look at the restrictions on the Exhibit Number -- Plaintiffs' Exhibit Number Four. Do you recognize Plaintiffs' Exhibit Four?

A: Yes, I do.

Q: Are those restrictions for the subdivision?

A: Yes, they are.

Q: And do you agree that the Lake Access Lot was bound by the restrictions in Book 611, Page 232?

MR. WALKER: Object to the form. It's leading and calls for legal conclusion.

MR. SMITH: Party admission.

THE COURT: How is it an admission of a --

MR. SMITH: Because she admits that those -- the testimony I'll elicit she admits that those restrictions applied to the Lake Access Lot.

THE COURT: Okay. In the deposition?

MR. SMITH: Yes, sir.

THE COURT: Okay. I'll allow that.

Q: Okay. Do you agree that the Lake Access Lot was bound by the restrictions on Book 611, Page 232 as set forth in Plaintiffs' Exhibit Four?

A: I guess so.

Q: At the time I took your deposition, before then you had never been involved in issuing or drafting any covenants or restrictions for Hilton Place, correct?

A: No.

Q: Is that correct? Let me rephrase. Before I took your deposition -- I took your deposition six months ago or so ago, yes?

A: That's correct.

Q: Okay. Before then had you been involved in

drafting and covenants or restrictions for Hilton Place?

A: No.

Q: Let me show you what's been marked as Exhibit Eighteen. Do you recognize Exhibit Eighteen?

A: Yes, I do.

Q: And when did you first see it? What month and year?

A: I guess January 2011.

Q: Did you hear Ms. Bell's testimony earlier about when the improvements were made?

A: Yes.

Q: And when they were working on the lot in 2011?

A: Yes.

Q: Okay. Did you show this particular document to Charles S. Coleman, Jr.?

A: Yes, I did.

Q: And who's Charles S. Coleman, Jr.?

A: My brother.

Q: Okay. And who does he work for?

A: He works for Coleman Construction Company.

Q: Is that the same company you work for?

A: Yes, sir.

Q: So you shared this letter, correct?

A: Yes.
Q: Okay. Do you recognize the signature where it says F. Kenneth Mathis?
A: Yes, I do.
Q: Who's Mr. Mathis?
A: He is a neighbor that doesn't live on our property. He lives down the street on Cozy Court.
Q: Is that in Hilton Place subdivision?
A: No, it is not.
Q: On paragraph number three, can you read that please?
A: "Mr. Smith has erected an outbuilding structure, attached deck, and a dock in the lake access area. Mr. Smith intends that these structures and the space that they occupy are for his personal and exclusive use."
Q: So the issue arose as early as January 2011, correct?
A: Uh-huh (affirmative response).
Q: Is that a yes?
A: Yes.
Q: And what did you tell Ken Mathis when he -- did he give you this letter?

A: Mr. Mathis harassed me. He kept calling me wanting to know what I was going to do about it.
Q: Okay. My question is, did he give this letter to you?
A: He left this on my door step.
Q: Okay. And later did you talk about it with Mr. Mathis?
A: Yes.
Q: Okay. And what did you tell him in response to this letter?
A: What did I tell him? I told him that it was nothing wrong with Mr. Smith erecting these structures.
Q: Okay. And you already admitted that those structures were subject to Plaintiffs' Exhibit Four, the restrictions, correct?
A: Yes.
Q: Okay. And was Mr. Smith, I'm looking at paragraph three, says no building, barn, or outbuilding. Do you see that?
A: I do.
Q: And do you agree that outhouse is an outbuilding?
A: It is. It's a bathroom.

Q: Okay. Not connected to a house is it?
A: No, it's not.
Q: Not connected to a residence is it?
A: No, it's not.
Q: There is not an outhouse on the Lake Access Lot now, correct?
A: That is correct.
MR. SMITH: Please answer any questions defense counsel has for you.
THE COURT: Is there a cross?
MR. WALKER: Your Honor, if it's okay. I'll remain seated.
THE COURT: Certainly.
MR. WALKER: I don't want to stand over people.
MS. FREEMAN - CROSS EXAMINATION BY MR. WALKER:
Q: The homeowner's association that you were involved in in 1992 disbanded, right?
A: Yes.
Q: Your father passed away a year before, didn't he?
A: That's correct.
Q: During his lifetime, did your father ever make any effort to form a homeowner's association for this area?
A: No.

Q: Did he ever tell you to go form one yourself for this area?
A: No.
Q: Did he ever encourage anyone else to form a homeowner's association for this area?
A: No.
Q: Did your father tell you that the purpose for the lake access parcel on the plat was to give off-lake owners the ability to access the lake?
MR. SMITH: Objection. Calls for hearsay.
THE COURT: Hold on. Mr. Walker?
MR. WALKER: Your Honor, he's already brought out that's what she was told.
THE COURT: Hasn't this already been opened up? Didn't you ask the same thing?
MR. SMITH: I asked her what his intent was.
THE COURT: All right. Will you rephrase your question?
Q: Where did you acquire your knowledge about your father's intention for the purposes for the lake access parcel?
A: He told me that --
MR. SMITH: Objection.
THE COURT: I think that's been opened up. He asked

intent. You questioned on that. I'm going to allow that question.

MR. SMITH: Thank you.

A: His intent was for the off lake property owners to have a lot to access Lake Murray.

MR. WALKER: And I apologize, Judge, I'm just kind of skipping around here.

Q: Are you aware of any of the Plaintiffs in this lawsuit forming a homeowner's association?

A: No.

Q: During the sales process was there a For Sale sign on the property?

A: Yes, it was.

Q: How long was it there?

A: We had two different signs for a year. Approximately, a year.

Q: Why did you have two different signs?

A: Two different real estate agents.

Q: How many people came to you with any offer to purchase the property in that year?

A: One. And it was Jud Smith.

Q: Did anybody else in the subdivision approach you about the sale of the property before you sold it to Mr. Smith and Ms. Brabham?

A: No.
Q: How is the appearance of the access lot changed since it was sold?
A: One-hundred percent better.
Q: You've heard a lot of people ask about their opinion of how this has influenced the value of their property. How has the change in the lake excess parcel affected the value of your property?
A: I would feel that it has increased. It is a nice area. Cleaned up. It looks 100 percent better.

MR. WALKER: No more questions, Judge.

THE COURT: All right.

MR. SMITH: Short follow up.

MS. FREEMAN - REDIRECT EXAMINATION BY MR. SMITH:

Q: Is it your sworn testimony that that area looks better even though it contains an outhouse?
A: That's correct.
Q: I'm on Exhibit Eighteen A, just to make sure this is clear for the record. Eighteen A is the Hilton Place Subdivision, where it states on page two, first full paragraph. "The Association has planned a work day to clean

the common area on Saturday, October 3rd." That common area is the Lake Access Lot, correct?

A: Yes, it's referring to the access.

MR. SMITH: No further questions.

MS. FREEMAN - RE-CROSS EXAMINATION BY MR. WALKER:

Q: Just to be sure the record is clear. In your mind, the common area and lake access mean the same thing?

A: Same thing.

THE COURT: You may step down. All right. Off the record.

(Off the Record)

THE COURT: All right. We're back on the record. We're going to take a lunch break until 2:00. I'm going to ask deputy, bailiff after everybody leaves to lock the courtroom, don't let anybody come back in until everybody comes back in. So do not leave anything in the courtroom that you feel you may need between now and 2:00, because you're not going to be able to get back to it until 2:00. That way you can leave all your -- counsel can leave your things out on your table and it will be locked and nobody will

be in 2:00. It's 12:20. I'm sure y'all are all familiar with what's around and close to Lexington, but you're going to need to hustle to get back by 2:00. So we're adjourned until 2:00. Thank you.

(Off the Record)

THE COURT: Everyone please be seated. Yes, sir.

MR. SMITH: May it please the Court? I next call, Chrissie Campitella.

THE COURT: Please come forward and be sworn, please.

CHRISSIE CAMPITELLA, being duly sworn, testifies and examines as follows:

THE COURT: Yes, sir.

MR. SMITH: May it please the Court.

MS. CAMPITELLA - DIRECT EXAMINATION BY MR. SMITH:

Q: Please state your full name for the record.

A: Chrissie Elizabeth Campitella.

Q: Ms. Campitella, are you married?

A: Yes.

Q: And what's your husband's name?

A: Mark.

Q: You have any children?

A: Yes.

Q: How many children do you have?

A: One.
Q: And what is your child's name?
A: Corey.
Q: What's your child's age?
A: Nineteen.
Q: Does your child live at home with you?
A: He's home today. He goes to college.
Q: Does he live at home during college or does he live elsewhere?
A: He lives at college.
Q: What's the highest grade in school you completed?
A: I have a two-year degree at a technical college.
Q: Which college?
A: Piedmont Tech.
Q: And what's your technical degree in?
A: Secretarial Science.
Q: Okay. Do you have any licenses in addition to your two-year degree?
A: I do. I have a broker-in-charge license.
Q: And what's a broker-in-charge license?
A: For real estate.
Q: What's your current address?
A: 117 Killian Point Circle, Chapin, South

Carolina 29036.

Q: What subdivision is that in, if any?

A: Hilton Place.

Q: Let's me show you what's been premarked as Plaintiffs' Exhibit Twenty-Two.

THE COURT: Is that twenty-Two?

MR. SMITH: Yes, sir. Twenty-Two. I'll have my voice back in a minute.

Q: Do you recognize Plaintiffs' Exhibit Twenty-Two?

A: Yes.

Q: Is that an accurate copy of your deed?

A: Yes.

MR. SMITH: Your Honor, Plaintiffs move to present into evidence Plaintiffs' Exhibit Twenty-Two?

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Twenty-Two was admitted into evidence.)

Q: When you bought your property in Hilton Place subdivision, had someone lived there before you?

A: Yes.

Q: And what year did you move in?

A: 1997.

Q: Have you lived there continuously since 1997?
A: Yes.
Q: What's your current occupation?
A: I am a broker-in-charge for Seven Connections Realty.
Q: Okay. Do you own the company?
A: I do.
Q: Okay. You have any employees?
A: Yes.
Q: How many employees do you have?
A: Well, I have independent agents. They're not really employees.
Q: How many independent agents do you have?
A: Three.
Q: Okay. And how long have you been a broker-in-charge there?
A: Three years, one month.
Q: What were you doing for a living before then?
A: I was a real estate agent.
Q: How many years were you a real estate agent?
A: Ten.
Q: Before you became broker-in-charge?
A: Yes.
Q: Were you in residential or commercial or something else?

A: Residential.
Q: Have you always been in residential?
A: Yes.
Q: Before I get too far, let me show you what's been marked as Plaintiffs' Exhibit Number Eighteen. It should be just in front of you. Do you recognize the Plaintiffs' Exhibit Eighteen?
A: Yes.
Q: Okay. And does your signature appear on it?
A: Yes, it does.
Q: The date of this document is January 25, 2011. Is it an accurate copy of the document you signed about January 25, 2011?
A: Yes.
Q: Your Honor, we move, if it's not already into evidence, to move Plaintiffs' Exhibit Eighteen into evidence.
THE COURT: I have that already in.
MR. WALKER: I think it's already in.
MR. SMITH: I just didn't know if I moved it into evidence.
THE COURT: Yeah. It's already in. I've got it marked.
(Plaintiff's Exhibit Number Eighteen was admitted

into evidence.)

Q: And how did it occur or come about that you signed this particular document on or about January 25, 2011?

A: I was approached by Mr. Buzz Mathis, which is also Kenneth Mathis on this document, to sign a petition to stop work on our Lake Access Lot to present to the grantors.

Q: Okay. And did you know Mr. Mathis?

A: Just met him since this thing come up. I think he used to work with my husband. So just when he roaming the neighborhood to say hi.

Q: Did he own land in the subdivision at the time?

A: Yes.

Q: Let me refer you to another exhibit while we're there. Plaintiffs' Exhibit Ten, do you recognize that as a deed that's already into evidence?

A: Yes.

Q: And let's look at the day it was signed, April 21, 2011. Do you see that on the second page?

A: I do.

Q: And who's the grantor of this deed?
A: F. Kenneth Mathis.
Q: Is that Buzz Mathis?
A: Yes.
Q: Okay. And can you read for the record what piece of property he conveyed to Steve Linder and Jackie?
A: "Lot 9, Block A and Lot 9-A on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, dated September 19, 1983."
Q: Thank you. Do you know what the MLS is?
A: Yes.
Q: What the MLS?
A: It's a multiple listing service that I subscribe to as a broker-in-charge.
Q: Okay. Let me show you a document number 23 and ask if you've seen it before.
A: Yes.
Q: Can you explain to the judge what document 23 is?
A: This is actually the document that I printed off. I printed this off for Mr. Smith. After the lot had sold through the MLS, I think the sales price was 25,000. It closed

on July 29, 2010. It was listed on January 5, 2010.

Q: This is the document that real agents normally produce in the course of their business?

A: Yes.

Q: Is this an accurate copy of a document for the MLS for the Lake Access Lot in question?

A: It contains the .60 acres. It does not contain the three acres.

Q: Okay. And explain that to the judge.

A: I think -- do you want me to get into the deed?

Q: Well, you brought up 6 acres and .6 and three, so you can explain to him what you mean.

A: Well, the deed that Mr. And Mrs. Bell had also had a three acre parcel underneath the waters of Lake Murray that was not listed on this MLS sheet.

Q: My question is, is this an accurate MLS for the Lake Access Lot?

A: For the lake access, yes.

MR. SMITH: Okay. We'd offer Plaintiffs' Twenty-three into evidence.

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Twenty-Three was admitted into evidence.)

Q: Okay. Can you read on this particular document what the original sales price was?

A: The original asking price was $110,000.

Q: Okay. Does it have the sales price on there?

A: Yes. Right here.

Q: Okay. How much?

A: Twenty-five thousand.

Q: Okay. And can you read the remarks?

A: The agent remarks or the other remarks.

Q: The one that's got highlight.

A: It says, "This is the Lake Access Lot for Hilton Place. Off-water lot owners will continue to have access via this lot after sale -- hence, the competitive price. Not approved for dock. Waterfront is believed to be 86 feet, but it's to be verified. Acreage is approximate. No sewer available. Some utility easements exist on sides of lot."

Q: And can you read the other highlighted portion?

A: The agent remarks. This is Mr. Conine, which

was the listing broker. "Should not use as lake comp. No septic, no dock permit, not buildable."

Q: Thank you. And do you know who produced that, did you say?

A: Stan Conine with Asset Realty.

Q: If I show you a plat of the subdivision, can you identify where your house is?

A: Yes.

Q: We'll do it with green. Do you see where the yellow Lake Access Lot is?

A: Yes. This is me.

Q: Yes. For the record, are you coloring in lot number two, Block B?

A: Yes.

Q: Is your lot, does it abut or is it adjacent to the lake?

A: No. It's across the street from the lake.

Q: Okay. I'm going to show you what's been marked as Plaintiffs' Exhibit Twenty-Four. I ask if you recognize it?

A: Yes.

Q: And can you tell the judge what those photographs are?

A: This is my neighbor, who is now deceased,

Steve Bendeziewicz, and my husband Mark Campitella and our children. They are snow skiing on the Lake Access Lot and they're playing and building snowmen.

Q: Is this an accurate copy of the way it looked when this was taken?

A: Yes.

Q: You know about what year this was?

A: I sure don't.

Q: Was it last year?

A: No.

Q: About how many years ago?

A: I really don't know.

MR. SMITH: Okay. We'd offer Plaintiffs' Exhibit Twenty-Four into evidence.

MR. WALKER: No objection.

THE COURT: Without objection Number Twenty-four.

(Plaintiffs' Exhibit Number Twenty-Four was admitted into evidence.)

Q: After Mr. Smith and Ms. Bell purchased the Lake Access Lot, did you have occasion to take photographs?

A: Yes.

Q: I'm going to show you what's been premarked as Plaintiffs' Exhibit Twenty-Five and ask if

you would look at all the pages. Do you recognize those photographs?

A: Yes.

Q: Who took those photographs?

A: Probably me.

Q: Okay. And do you see the date stamped in the bottom right of each photograph?

A: Yes.

Q: Is that the accurate date to your knowledge of those particular photographs?

A: Yes.

Q: And does this accurately depict the Lake Access Lot and its surrounding area for the dates stamped on those photographs?

A: Yes.

MR. SMITH: Your Honor, we would offer Plaintiffs' Exhibit Number Twenty-Five into evidence.

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Twenty-Five was admitted into evidence.)

Q: As you look at the first page, can you explain to the Judge what the first two pictures are? First two.

A: The first two there's a golf cart blocking

the existing ramp that was there in this direction so nobody can go down the driveway.

Q: Okay. How about the third picture?

A: There is dirt there. I do believe they had to bring in dirt in order to get a perc test. And there is machinery around that's digging down in a big hole. There's a gazebo. There's an outhouse. It looks like their boat's parked down by the pier.

Q: All right. On the dates listed on page one on Plaintiffs' Exhibit Twenty-Five, anyway that one could launch a boat down that ramp?

A: No.

Q: Page two, let's talk about the top photo first. What is that?

A: It looks like this one they started construction.

Q: Okay. What's the date on that?

A: It looks like 11/07/2011.

Q: What's the second and third photograph?

A: It's a fire pit and a golf cart blocking the lake access and a truck blocking the ramp.

Q: When you took these photographs, did you simply take a snapshot or did you come back later, again and look at the area? Let's

stay on this page first.
A: I'm not sure.
Q: Okay. Let's turn to page three -- on page two, anyway someone could launch a boat if the conditions exist in photograph two or three?
A: No.
Q: Anyway someone could launch a boat in photographs one and two on page three?
A: No.
Q: How about the photographs on page four? Anyway anyone could launch a boat there?
A: No.
Q: I'm going to show two more sets of photographs. I'll show you Plaintiffs' Exhibit Twenty-Five A first, okay? First question is, do you recognize the photographs in Plaintiffs' Exhibit Twenty-Five A?
A: Yes.
Q: Okay. How do you know if you recognize the other ones if you haven't seen the other pages?
A: Yes.
Q: Okay. Who took those photographs?
A: I did.

Q: And do those depict the Lake Access Lot?
A: Yes.
Q: On what day?
A: I think they were some time around the third week in June maybe.
Q: This year?
A: Yes.
Q: Okay. And what, in general, do those photographs depict?
A: That's the boat trailer. They had backed a boat down into the water and they brought the trailer back up and parked it at an angle, blocking the ramp.
Q: Okay. Photograph two, what's that?
A: That's about four cars from a party that they were organizing that was parked on the Lake Access Lot.
Q: What's the next photograph?
A: That is their trailer blocking the Lake Access Lot that I had taken a couple of days after that that they did not move. And the outhouse and another little trailer for a John boat they have, I think.
Q: Okay. Let me show you -- does 25 A, those photographs accurately depict third week of

June of this year the Lake Access Lot?

A: Yes.

MR. SMITH: Your Honor, we would offer Twenty-five A into evidence.

MR. WALKER: No objection.

THE COURT: Without objection.

(Plaintiffs' Exhibit Number Twenty-Five A was entered into evidence.)

Q: Let me show you what is marked as Twenty-five B. Did you take the photographs?

A: Yes.

Q: Okay. And when did you take the photographs in Twenty-Five B?

A: Same week. This ramp, this boat trailer was left on there for about a week.

Q: Anyway anyone could back a boat down that ramp with a trailer there?

A: No.

Q: Before this lawsuit began, what was your understanding of your rights in the Lake Access Lot?

MR. WALKER: To the extent it calls for legal conclusion, I'll object to it. But she can offer her understanding.

THE COURT: All right. I think she's been asked

just what her understanding is.
A: Before it sold?
Q: Yeah, before it sold. Yes, ma'am.
A: It was my understanding that the grantors was going to deed it over to the homeowners and establish an HOA.
Q: Okay. And how did you come by that understanding?
A: I was told that from the person I bought my lot from --
MR. WALKER: Object to hearsay statements, non-parties, not admissible.
MR. SMITH: I'll rephrase.
THE COURT: All right.
Q: Have you ever talked to any of the Defendants about that before it was sold?
A: Yes.
Q: Okay. Who did you talk to?
A: Sissy Freeman.
Q: Okay. She, the person who testified earlier?
A: Yes.
Q: Okay. And tell the Court what you and Sissy talked about regarding the Lake Access Lot before it was sold to Judson Smith and Christy Bell.

A: You want everything or just --
Q: Well, my question was, I asked you what did you understand your rights to be. And did you say you talked to some folks to understand what your rights were?
A: Well, there were several conversations. One --
Q: That you had with who?
A: Sissy Freeman.
Q: Okay. And tell the Court about the first one and the one that followed that up.
A: She said at one time that she had tried to establish an HOA with -- including the lake front owners. And that she had gotten in a big fight with Buddy Drake and that she wasn't going to do it anymore. And then later on, I guess after I become a real estate broker, I had a house listed in the subdivision, which had different language in the deed than mine had. So I called my attorney and I asked for her to explain to me why my deed is not right.
Q: Okay. Don't tell us what your attorney said. What happened next? What did you do when you discovered that, after talking to your

attorney?
A: I had my attorney call Ms. Freeman.
Q: Okay. And did you talk Ms. Freeman about the same issue at some point?
A: Yes.
Q: Okay. And what did you and Ms. Freeman discuss?
A: She said -- I saw her at a swim meet and she said, you're mad at me, aren't you? And I said I'm not mad at you, I just want what I thought I bought, which was the Lake Access Lot. And she said, well, my hands are tied. She said I can't do anything, because we're in the middle of an estate and my brothers won't let me.
Q: Okay. And what did you understand -- but again, before the sale to Mr. Smith and Ms. Bell, what did you understand your rights were or suppose to be in the Lake Access Lot?
A: I was waiting for them to deed it over to us. I was always under the impression that at some point they were going to deed it over to us after they had finished with the estate matters and that we were going to try to form the HOA, which I was originally told

that's what was going to happen. And we were all going to have a nice little community.

Q: Okay. At some point after the Lake Access Lot was sold, did you speak to Christy Bell?

A: Yes.

Q: Okay. And tell the judge how that came about.

A: I actually didn't stop to talk to her. I saw one of my other neighbors walking the Lake Access Lot. And it was kind of late at night. So I stopped to see if he was okay. And all of a sudden she was at my car window. So she had just gotten a new dog. And I said you must be Christy Bell, I'm Chrissie Campitella. And we ended up talking, getting in the middle of the lake access issue. And I told her that I lived at 117 Killian Point Circle and I was not happy that this lot had been sold to them and that I understand they paid 25,000 for it and if they wanted us all to get together and somehow reimburse them and make it out to what it was suppose to be and have a nice community, have him call me. And I gave her my business card.

Q: Gave who your business card?

A: Christy Bell.
Q: Okay. Did you ever receive a call from Christy Bell?
A: No.
Q: Did you ever receive a call from Judson Smith?
A: No.
Q: And when this occurred, had all construction already been done or what phase, if any, was the construction on the Lake Access Lot?
A: I only remember the gazebo being there.
Q: Okay. Nothing else?
A: Not to my knowledge.
Q: Okay. What types of activities, if any, over the years have you and your family engaged in on the Lake Access Lot, in addition to the snow skiing we see in the exhibit we put into evidence?
A: My son played on it when he was younger. And my husband may have trimmed the lot once. I went down there and walked my dogs. And I had fished there. And just put my feet in the water a couple of times.
Q: Did the developer or any of the heirs other than Sissy Freemen ever contact you regarding

a potential homeowner's association?
A: No.
Q: After Mr. Smith and Ms. Bell, after they purchased the property, did they contact you to see if you wanted to chip in to help improve it?
A: No.
Q: Are you familiar with the outhouse photo that we have into evidence?
A: Yes.
Q: And do you believe the existence or continued existence of that outhouse affects the value of your property?
A: Yes.
Q: Okay. And how does it affect the value of your property?
A: In a negative way.
Q: Okay. Do you have an estimate of how much your property's worth?
A: In today's market, probably around 275,000.
Q: Okay. And is it worth 275 with the outhouse there or with the outhouse not there?
A: With the outhouse there, probably 250.
Q: Okay. And why do you think it's worth $25,000 less if the outhouse is not there?

A: Well, it's an eyesore. And, you know, we're in a lake-front community and it is uncommon in any subdivision I've ever been to, especially upper class lake front homes, to have an outhouse in the middle of the subdivision.
Q: Do you believe that outhouse complies with the restrictions?
A: No.
Q: In addition to the photographs we saw of the ramp, the boat ramp being blocked, have you gone by there at times and not taken photos and seen the boat ramp blocked?
A: Yes.
Q: Okay. How many times do you go by the Lake Access Lot at any given month?
A: At any month?
Q: Yes.
A: Probably 50.
Q: Okay. You get to go by it -- back and forth by it to get to your house?
A: More than that. Probably 80 to 100.
Q: Do you have to go by it to get to your house?
A: Yes.
Q: Okay. Have there been other occasions when

you've seen the boat ramp blocked?
A: Yes.
Q: Okay. Kind of give the judge an idea, since I'll say January 1 -- or January 2011 when Buzz Mathis sent that letter, how often each month have you seen the boat ramp blocked by something?
A: Maybe two or three times a month.
Q: Okay. What's it normally blocked by?
A: Usually a golf cart when they take their boat out in the water. And when their boats gone, they block it so nobody can use it while they're gone.
Q: So instead of parking there -- who's got the golf cart?
A: Mr. Smith and Ms. Bell.
Q: So instead of parking the golf cart to the side, where do they park it?
A: They park it blocking the -- like the picture I showed you, so we can't use it while they're gone.
Q: You ever consider throwing a party there or maybe barbequing on the Lake Access Lot?
A: Not at this time.
Q: Well, I mean, how about in the future when

this thing's resolved?
A: It would be a small low-key gathering.
Q: Would you like to have the right to do so?
A: Yes.
Q: I'm going to go through the exhibits just briefly. Do you recognize Plaintiffs' Exhibit Four?
A: Yes.
Q: Are those the restrictions we discussed earlier?
A: Yes.
MR. SMITH: Please answer any questions the defense counsel has for you.
MS. CAMPITELLA - CROSS EXAMINATION BY MR. WALKER:
Q: Ms. Campitella, isn't it true that no where in Exhibit Four does it say, you or any of your fellow Plaintiffs have unfettered access to the lake access parcel?
A: In this document?
Q: Yes, ma'am.
A: Yes, that's correct.
Q: So it doesn't say anything about your rights to unfettered access in Exhibit Four?
A: Correct.
Q: And on the plat that you're familiar with, it

simply says lake access on this lot, right?
A: Right.
Q: And you purchased your property from someone who's not one of the grantors, right?
A: Right.
Q: You never met Charles Coleman, Sr. or Mr. Stoudenmire?
A: No.
Q: So you never spoke to them about their intention for the lake access parcel and your use of it?
A: No.
Q: If you're allowed to use the gazebo, use the fire pit, use the restroom facilities, isn't that going to be more burdensome on Mr. Smith and Ms. Brabham than if you just come and go?
A: I don't know.
Q: Isn't it going to have greater wear and tear if everybody in the subdivision uses all those improvements?
A: That's what it was intended for as far as I was concerned.
Q: Well, but you've already told me you never got any information from Mr. Stoudenmire or Mr. Coleman about their intention, right?

A: As far as I know, they were deceased.
Q: You pass the lot to come into court this morning, right?
A: Yes.
Q: You looked at it, didn't you?
A: Right.
Q: And if you had parked your car, you could have walked right down to the lake, couldn't you?
A: If I had wanted to.
Q: You could have driven your car down to the lake, couldn't you?
A: My car?
Q: It's got a gravel drive all the way down to the boat ramp, doesn't it?
A: I don't know. I mean, if I was allowed, yes I could.
Q: Mr. Jud Smith and Ms. Brabham have never told you, don't come on the lake lot, have they?
A: No.
Q: They've never posted a sign telling you, don't come on the lake lot, have they?
A: No.
Q: Then why are you saying if you were allowed to? Why do you say that?

A: Because I was in a lawsuit with your Defendants. And I do not like confrontation.
Q: Well, isn't it true you used profanity in your conversation with Ms. Brabham when you spoke to her?
A: Yes, that is true.
Q: You yelled at her, didn't you?
A: That was for another reason.
Q: But you don't like confrontation?
A: Well, she had it coming that day.
Q: Is that in your redneck judgement, as you used that word?
A: Yes, exactly.
Q: When you seen a golf cart parked near the boat ramp, have you ever asked Mr. Smith or Ms. Brabham, if they would move it?
A: No. They were out on the lake.
Q: Have you ever asked them to not leave the golf cart parked at the bottom of the ramp?
A: No.
Q: Your lawyer showed you another set of photographs, that would be Twenty-Five A or B. Are they up here? I don't want to go --
A: I don't know.
Q: May I see them please very briefly? I'm

going to show you page two of Twenty-Five B, as in boy. Is it your testimony that the trailer's blocking the gravel road leading to the boat ramp?

A: Yes.

Q: Isn't it true -- what's all this gravel over here to the right of the trailer?

A: You can't see the rest of the lot. I mean there's another trailer on this side, which is right about the outhouse. See.

Q: And you're -- and I apologize for taking this from page three of Exhibit Twenty-Five A. And isn't it true this white strip right through here is the gravel road that runs right down to the boat ramp and there's nothing on the white strip, is there?

A: The trailer is diagonally on there. And that's their personal property, right? I don't want to damage it.

Q: Did you ever ask them to move the trailers so somebody could get a boat down the boat ramp?

A: Why should I have to ask them if I'm suppose to have access to it?

Q: Did you ever ask anybody --

A: No.

Q: -- to move anything so somebody could get to the boat ramp?
A: No.
Q: Okay. You ride by this property, typically, more than once a day, right?
A: Yes.
Q: For sale sign was posted on the lot for months and months, right?
A: About a half a year.
Q: And did you ever go to the grantors and challenge their right to sell the lot before the sale took place?
A: No.
Q: Did you ever make an offer to purchase the property?
A: Well, I thought I had purchased that property when I purchased my Lake Access Lot with my home.
Q: So you're a realtor and you know you didn't purchase this lot, didn't you?
A: I wasn't a realtor at the time I purchased my home.
Q: You're a realtor now. Don't you understand you did not own that property, you owned an easement?

MR. SMITH: Objection. That calls for a legal conclusion.

THE WITNESS: That's right.

THE COURT: Sustained.

Q: Did you study easements as a part of your real estate training?

A: Yes.

Q: Did you ever make an offer to purchase fee simple title to the lake access parcel?

A: No.

Q: You testified that what's on this property has decreased the value of your property by 25,000 bucks?

A: Right.

Q: I want to show you a discovery response served on me by your lawyer. And this is the answers to first interrogatories. And this is your and your husband's name, right?

A: Uh-huh (affirmative response).

Q: That's your address?

A: Uh-huh (affirmative response).

MR. SMITH: Say yes or no.

A: Yes.

Q: And doesn't it say your value has been decreased by at least $10,000?

A: I guess I did. I don't recall that, though.
Q: When did it change from at least 10 to 25?
A: I don't know.
Q: You just made that number up, didn't you?
A: I'm not an appraiser.
Q: Well, did you just make the number up or not?
A: I guess I did.
Q: If you have full access to put boats in, walk down, reach the water on the access lot, have you been damaged in this case?
A: Yes.
Q: By what?
A: Not having entire use of the lot.
Q: Can you point to any document up there that says you have the right to tromp on every inch of the lake access parcel?
A: No.
Q: Did you ever attempt to form a homeowner's association in the years you've owned property in this subdivision?
A: I told Ms. Freeman I would help her establish a HOA. She said go ahead, I'm not going to do it.
Q: Did you ever make any effort to form a homeowner's association for this area?

A: We were waiting on her lead as a grantor.
Q: How many years have you lived in this subdivision?
A: Since 1997.
Q: So from 1997 to 2010, 13 years, you've made no effort yourself to form a homeowner's association?
A: I do not have the deed to the lot, so how can I do that?
Q: Isn't it true that you've never made an effort to form a homeowner's association for Hilton Place?
A: It's true I've never been approached to form a HOA with the grantors. So the answer to that is I have not. I would have gladly participated.
Q: When the gazebo, the fire pit, and the decking were being constructed, you never went up to Mr. Smith or Ms. Brabham and said you're not allowed to do that construction, did you?
A: Right here.
Q: Okay. That's fine. Let's look at that. Thank you very much. That's Exhibit Eighteen. Doesn't Exhibit Eighteen say --

this is the third paragraph. "Mr. Smith has erected," built, "an out building structure, attached deck, and a dock in the lake access area."

A: There was also another document that I did not -- it was also a cease and desist document that was done. And I don't know where it is to be quite honest.

Q: By the time Exhibit Eighteen was written, all those improvements were already made on the property, right?

A: I don't know. I guess they were.

Q: And let's look at Exhibit Twenty-Three, which is an MLS. Okay. And your lawyer had you read some highlighted portions. Isn't it true that at the time the Lake Access Lot was listed there was no septic system on the property?

A: Right.

Q: And to your knowledge, there was no permit to prevent a dock to be constructed on the lake access parcel?

A: Right.

Q: And isn't it true you cannot build a house on the lake access parcel?

A: I guess so.
Q: Down at the very bottom this form also says, "Information Herein Deemed Reliable, but Not Guaranteed," right?
A: Right.
MR. WALKER: I don't have any more questions, Judge.
THE COURT: Anything on redirect?
MR. SMITH: Nothing further. And the Plaintiff rests.
THE COURT: Thank you.
MR. WALKER: I call Mr. Smith, Your Honor.
THE COURT: Yes, sir. Come and be sworn. Plaintiff has rested.
JUDSON SMITH, being duly sworn, testifies and examines as follows:
MR. SMITH - DIRECT EXAMINATION BY MR. WALKER:
Q: Mr. Smith, if you'll just briefly tell the judge what you do for a living and a little bit about your family.
A: I'm currently the director of fixed operations for the Dick Smith Automotive group. I've been holding that position for about 20 years. Prior to that I worked for Hancock Buick BMW as a fixed ops, body shop and

service, BMW manager.
Q: And just to help the judge to understand that means you're in charge of parts, service --
A: Parts, service, body shop, maintenance, building, construction, janitorial. Anything that breaks, they call me.
Q: In your prior work career, did you have any experience in construction?
A: I have worked as a carpenter. My father was a builder. He was also a mechanic, so I've got a little experience on everything.
Q: Okay.
A: I'm also a horse breeder. I'm a farmer.
Q: I want to, in the interest of time, kind of cut to the heart of things we're here to talk about. One of which is access that other people have across the lake access parcel. If you would, explain to the judge any intent you have to limit or affect that?
A: I have intent. I mean, the access has been open since day one. That was my understanding and that's what I've allowed.
Q: Well, you sat here and you heard Ms. Campitella say that during construction the access was periodically interrupted. If you

would address that issue with the judge, I would appreciate it.

A: Well, any type of construction you're going to have ditches, you're going to have dirt moved. You're going to have clean up. Unfortunately, this lot was a dump zone for the community. And I spent probably the first three or four months just cleaning up debris, rock, building material that had been dumped. And yeah, I had to get my bulldozer in there, my backhoe in there, my bobcat in there, dump trucks to haul it off, clean it up. And then we started coming back, rebuilding it.

Q: After the construction period, you've seen photographs there where vehicles appear to be interfering with the access. And I guess we'll start with Plaintiffs' Twenty-Five A. Do the photographs in Twenty-Five A depict any blocking of the access?

A: Absolutely not. The access -- the driveway is completely wide open. The trailer's parked parallel to it. And I purposely parked it there myself to keep access from being blocked.

Q: And there are some other photographs that show a four-wheeler down near the boat ramp. And they are part of Exhibit Twenty-Five, I think. Yes, sir. If you would look at pages two, three and four of Exhibit Twenty-Five and explain to the judge what limitations on access they show if any.

A: Two, the golf cart, it looks like it was actually in front of about where the gazebo was. But you can clearly see to the right of it, you could pass right beside it.

Q: And what page are you on there?

A: I'm on the second page. The second photo.

Q: Are there instances where a four-wheeler could have been parked to block access?

A: Temporarily, yes, while we unloading or loading.

Q: Tell the judge how many times you've been asked to move a vehicle to let somebody get to the lake?

A: Never.

Q: Have people, who are living in the subdivision used the property for access while you've owned it?

A: Numerous times.

Q: Explain to the judge what you know about that?

A: Several people have come up. I don't really know who they are. They've asked if they launch their boat there. Originally, the ramp did not even reach the water. And I told them you're welcome to use it, but you're at your risk. At that time I wouldn't even launch my boat there, because the first time I tried to launch my boat, I actually busted the bow of it. And so from then on, actually for the first year, I rented a spot at Putnam's so that I wouldn't take risk of hurting my boat again. But, yes, numerous people have used it. Chrissie Campitella's neighbor, John. I can't remember his last name. He's used it for his sailboat. He's used it for his Kayak's. Several young guys in the neighborhood have launched Sea-Doos there from time to time. Obviously, I assume maybe people are using it when I'm not around.

Q: Prior to the time you -- and I've got to call her Christy. Prior to the time y'all begin constructing improvements, did you have any

discussion with the grantors about construction on the lake parcel?

A: I mean, at the closing I think Christy asked the question, you know, are there are rules or regulations that we need to, I guess, adhere to with this. And we were basically told, no, there's none. None exist. It doesn't apply.

Q: With that permission, did you ever go back and consult with anybody, other than the government, before you did anything?

A: Not at all, no.

Q: You were asked or Ms. Brabham was asked about did y'all have building permits. Tell the judge what you know about whether you had to have a building permit.

A: When I went to Lexington County and asked, I was told the only thing I needed was an electrical permit, which I did purchase. Gazebo and a deck do not require building permits.

Q: Would you explain to the judge what improvements you and Ms. Brabham made to the property?

A: Well, like I said earlier, the first three

months we spent just cleaning it up hauling debris off.

Q: Let's -- and I apologize for not focusing on that first. What was the condition of the property when you purchased it?

A: It was a dump. You couldn't get to the water. You know, I've heard testimony that the grass was cut. Well, that's not true. I mean, it wasn't true in 2009, '10, and '11. The upper part of it was cut, but as far as down to the water, absolutely impossible. You had to wear snake boots or be very careful. We tried one time to come in, I think Christy had mentioned earlier, to show some people our house. And there was absolutely no way to bring our boat in or even -- I attempted to tie it off, but I got very nervous of it and I said we're not doing it. It's just too risky. I actually, I think the first Saturday or second Saturday after the closing, I brought a tractor with a Bush Hog in and mowed down the ramp and knocked some pines, about as big around as my arm, down just so you could actually get to the water.

Q: Could you launch the boat on the day you and Ms. Brabham purchased the property?
A: Absolutely not. It was impossible.
Q: Why not?
A: It was too many trees in the way. It was impossible. And actually, I remember after I bush hogged, there was -- I think the guy told me he was Steve's brother-in-law or somebody, was trying to put some Sea-Doos in and they busted a tire. I actually helped fix the tire to get back out, because they tried and they couldn't.
Q: What kind of equipment did you have to use to clear the dump on the lot?
A: I used my backhoe, I used my bull dozer, my bobcat, tractors. I actually hired a friend of mine to bring a bigger backhoe in because mine wasn't strong enough to move the debris and open it up so that I could clear it.
Q: You talked about debris on the property. I think that was your word. What kind of stuff are you talking about?
A: Stumps, rocks, concrete that had been broken up, chipped up from somewhere. It looked like an old foundation. Block, bricks,

trees.

Q: Once you got the dump cleared up, what did you Ms. Bell do to -- Ms. Brabham do to improve the property?

A: We started hauling in dirt. I don't know the exact number, but last time I kept account in my head we hauled over 10, 20 ton loads of dirt in just to cover up the hole the whole that we had to dig to get the crap out of the way. And to get some semblance of level, to get grass to start growing.

Q: Once that was done, did you build?

A: Yes. We started, I don't remember exactly what -- I think I hauled the gazebo in first and set it up. And then we built the deck on the front of it. And maybe the small bridge and then the new deck over the rock. And then we moved over -- by that time I got permitting from South Carolina Electric & Gas to put in the dock. And we did that. And kind of worked our way back up the hill and built the fire pit and the surrounding deck on it. In that process we actually were pouring concrete widening the ramp. I lengthened it the initial time about 15 feet.

And then the year later I lengthened it about another 15 feet because the water level, right there today, you have to go out about 40 feet to even -- for my boat, to start floating. And it takes about two and a half to three feet for my boat to float. So in the beginning, again, there was no way you launch a boat of any size.

Q: You talked about a gazebo, decking, then a dock, then a fire pit and widening the boat ramp?

A: Right.

Q: For those, well, for those five construction projects, about how long did that take?

A: It seemed like forever. I don't know. A year and a half, two years. I really don't remember.

Q: During that time, please tell the judge how many letters of complaint you got about the construction.

A: I never got any letters, only compliments.

Q: Please tell the judge how many verbal complaints you got during the time the construction was ongoing.

A: The only complaints I ever got was from Steve

and he was just complaining because I had to repair the sewer line where he was encroaching across the lot.

Q: It's a little out of order, but while we're on the subject.

THE COURT: Ten? Madam Court Reporter is that -- which one is that? Is that Defendant Number --

MR. WALKER: I think Ten.

THE COURT: Is it Ten.

MR. WALKER: But I'm not a hundred percent positive. Yes, sir.

(Defendants' Exhibit Number Ten was marked for identification purposes.)

Q: Mr. Smith you've mentioned a broken sewer line. After you and Ms. Brabham purchased the property, did you discover there was a sewer leak on the property?

A: There was actually numerous sewer leaks on the property. Several on the -- I'll refer to as the west side that ran parallel with Killian Point Circle. And then there was one that ran on the back side of the lot that ran adjacent to the back of the fence behind Steve's house. There are six sewer lines

that run up that line and there's six sewer lines that follow the road on the front side.

Q: Did you eventually discover a sewer leak, I think you described it the side running behind the Linder residence?

A: Yes.

Q: Did you take corrective action when you discovered there was a broken sewer line on the lake access parcel?

A: Yes. And obviously, at that point, I was actually very familiar with the situation. I had met with Jim, I can't remember Jim's last name, with DHEC. Actually someone called and reported me repairing one of the lines one Sunday that we discovered leaking when we were cleaning up. And the end result of that was Jim, again I apologize, I don't remember his name, he came out, met with me and he showed me a drawing --

Q: Just don't get into anything you were told.

A: Okay. Jim showed me a drawing where the sewer lines came through that property. And as he and I walked and talked, we actually found another line leaking. And, you know, I said who's responsible for this? And he said

well, the homeowners. And he said, but fat chance on having that fixed, because they never agree to fix anything. And so I said, well, is there any reason why I can't repair them? He said no, as long as you follow our guidelines. So I started repairing sewer lines.

Q: Did you undertake to repair a line behind the Linder residence?

A: I fixed two sewer lines behind there.

Q: And about when did that work take place?

A: It was in the fall, I'm assuming of 2011. Because I remember we left it open -- Jim wanted me to leave it open to make sure it wasn't leaking before I covered it. And I remember him calling me and telling me he had been back to reinspect and, if I could, go ahead and cover it up, because he was worried about it freezing in January or February. And it was open, probably eight weeks.

Q: Did you take some photographs during the time that work was being done?

A: I did.

Q: What did it smell like down there when that work was being done?

A: Oh, it was awful. That's what got me looking.
Q: I'm going to hand you what's been marked as Defendants' Exhibit Ten. And it's four pages of photographs. Could you explain to the judge what the four photographs depict?
A: These are the sewer lines that I fixed right behind Steve's fence and across what he used to refer to as his driveway.
Q: Where was the broken sewer line located?
A: The one in the first picture is about seven or eight feet to the left of the corner of his fence, beside again, what he called his driveway. The second picture is the same sewer line where it actually had two places that were leaking in it. And if you look at the picture, you can see actually the old gravel that he had put in to make part of his driveway. And the first line is actually right under that gravel point. The third picture is another sewer line that was directly under the driveway. And you can see where the coupling separated because of compaction. And that was because he was constantly driving back and forth over it.

Q: Did you repair the sewer lines?
A: I did.
Q: Since you repaired all the sewer lines, please tell the Court what odor problems you've noticed at the property.
A: None.
MR. WALKER: And, Your Honor, I would move Defendants' Exhibit Ten into evidence.
MR. SMITH: No objection.
THE COURT: Without objection.
(Defendants' Exhibit Number Ten was admitted into evidence.)
Q: I'm going to hand you what's already been marked as Defendant's Exhibit Six. You familiar with that drawing?
A: I am.
Q: You familiar with where the property line of the lake access parcel is?
A: Yes.
Q: Can you tell the judge where the dock is located in relation to the lake access parcel?
A: The dock is probably 15 to 20 feet below the end of the property line.
Q: Where is the deck that's on the lake, where

is it located in relation to the lake access parcel?

A: It's just on the eastern side. One corner actually runs up to the edge of that property line.

Q: You mentioned Putnam's Landing, how far is that from your house?

A: A quarter of a mile as the crow flies, but around the road probably a mile.

Q: How long would it take you to drive there?

A: Couple of minutes, five minutes.

Q: Do they have -- you call it landing. What kind of facilities do they have there?

A: Well, it's pretty dilapidated, but it's useable. They've got good deep water and probably house 40 or 50 boats there. And they have a nice launching pad.

Q: I want to shift gears a little bit to July 4 of this year. Can you tell the Court what festivities, if any, you and Ms. Brabham had at the property?

A: Other than going down and getting on the boat and driving out in the water, none.

Q: And how many people went and drove on the water?

A: My son and his wife. And my daughter and her boyfriend.
Q: You heard Ms. McDaniel say that on that day from her house she smelled an odor which she attributed to activity on your lot. Would you tell the judge what, if any, activity you're aware of that could have created that kind of problem?
A: I have no knowledge of any activity.
Q: Ms. Bell's explained to the judge how your waste system is set up. Do you have any knowledge about how a sewer odor could be emanating from your property from the time the septic tank was installed?
A: There's nothing from the septic tank. If there's anything coming now, it would have to be a sewer line that I haven't seen and I haven't smelled it. Again, the sewer lines run right directly in front of Ms. McDaniel's house and actually one from her house and comes across the lot. So with the debris and stuff on her lot, it could certainly be a sewer line leaking there, but there's nothing on our side.
Q: Okay. There have been questions asked today

about getting permission to build. And you've already told us about your conversation with the grantors. Have you seen other construction in the neighborhood in the last several years?

A: Well, Steve's been working on a tree house for a couple of years. Mr. McDaniel actually put up a barn right behind the property line last fall. It took him about a week to put it up.

Q: What knowledge do you have about anybody getting permission from the grantors for other construction?

A: I have no knowledge of it.

Q: Mr. Smith, just give me one second. Mr. Smith, is there anything else you need to tell the Court about this case and what you've done and not done?

A: Well, it's -- this whole thing has been very frustrating. I can't imagine why anyone would be upset or aggravated with me or Christy because of what we've done. Unfortunately, for us we've invested way more money than this property's worth to try to make it what it is. I'm one of those people,

and Christy is the same way, once we start something, we take it to Z. We finish it. This talk about homes and property being depreciated because of my outhouse, bathroom, is absurd. Last May, a year ago, my house was appraised by First Citizens for 225,000 for an equity line. I flipped it into a regular mortgage about two weeks ago. And they had another appraiser appraise it and it appraised for 240. So this whole deal about depreciation or devaluing is, in my opinion, very made up. As far as me blocking access, they're lying. There's no other question about it. I've never blocked access purposely. Now, to say that I don't back my boat, my truck down to unload my boat and let it sit there while I put the boat to the dock and then come back around and pull it up and park it, yes, I do do that. Do I pull the golf cart down and park it in front of the gazebo to unload supplies? Yes, we do that. But by the same token, when we're done, we back it up and pull it right over to the left in front of the fire pit and park it, every time. Now, some evenings Christy will go

down with the dogs to let them swim and she'll pull all the way down to the bottom of the ramp and park. But she's right there with the dogs, letting them swim. Then she leaves with the dogs, with the golf cart. This was a pig sty. It was a dump. And according to Stan Conine -- and again, whether he told me the truth or not --

MR. SMITH: Objection. Hearsay.

THE COURT: Sustained.

A: Every homeowner in this subdivision had an opportunity to buy this lot. The sign was up. The first sign was up for six months. The second sign was up for six months. Now, Stan Conine called me four times and asked me if I was interested in buying that lot.

MR. SMITH: Objection, Your Honor. Objection, Your Honor. Hearsay.

THE COURT: Hold on. You need to --

MR. WALKER: You need to not talk bout what --

THE COURT: You can't talk about what people out of court have said. It's hearsay. So just something that somebody in court had said, witness or party that's already testified.

A: Okay. At any rate, I declined the

opportunity to buy this property on four occasions. And the last time it was offered to me, I offered 25,000. And along with that offer, I said it must include the underwater lot. That was my deal, I would take it as is. I understood the risk of access. I met with Mark Smith, my real estate attorney, and asked him to define access to me. He said access --

MR. SMITH: Objection, Your Honor.

Q: You can't talk about what other people told you.

A: Okay. My understanding of access is people could come and go as long as they don't do anything that bothers me or my property. To be honest with you, there's people using that lot that don't even live in the subdivision that are using the access, going up and down that road to launch their boats. I want to be a good neighbor. If our country wasn't so suit happy like this, I'd be okay with people using the facility. But heaven forbid one of these children that play on these lots -- this lot all the time fell off my fire pit or got burned or broke an arm or broke a leg,

we'd be back in court because of a suit. That's my issue. The liability. There has to be a line here. Right's right and wrong's wrong. You can put up all the smoke and mirrors, you can put all the spin on it you want, none of that matters. The facts are all that matters here. I bought the lot. I've spent close to $100,000. I don't know the real number. That's Christy's deal. It doesn't matter. To make this what it is. And all I've done is improve this whole community. And if anybody in this courtroom says different, they're lying.

MR. WALKER: I don't have any more questions, Judge.

THE COURT: Cross?

MR. SMITH - CROSS EXAMINATION BY MR. SMITH:

Q: Mr. Smith, have you heard the other parties testify today?

A: Sure.

Q: Have you been here all day?

A: Yes.

Q: Did you hear them testify that that outhouse damages the community?

A: Again, I disagree.

Q: I'm going to show you what's been premarked as Plaintiffs' Exhibit Twenty-One. It's a survey of your property. There's already a copy of this into evidence. But we're going to do a little something different with this, okay. So do you recognize the Plaintiffs' Exhibit Twenty-One?

A: I do.

Q: Is that a survey that you have?

A: Yes.

Q: And that's for the Lake Access Lot, correct?

A: Yep.

Q: Sorry about your finger. Are you able to write with your right-hand? Are you right-handed?

A: I can write, but may not can read it.

Q: Okay. Do you consent to all folks in the neighborhood to use every inch of the Lake Access Lot?

A: No, I don't.

Q: Okay. Please mark, shade in green the parts of the lot you do not want others to use.

A: Do I have to stay inside the line?

Q: Well, you know, it's a legal proceeding.

A: That's over the line right there.

Q: Okay. And so generally, have you green shaded everything on the Lake Access Lot except for the gravel and concrete ramp?
A: Correct.
Q: Okay. And we would offer Plaintiffs' Exhibit Twenty-One into evidence, Your Honor.
MR. WALKER: No objection.
(Plaintiffs' Exhibit Number Twenty-One was admitted into evidence.)
Q: Do you remember signing a sales contract in this case?
A: I do.
Q: Let me see if Plaintiffs' Exhibit Seventeen is already into evidence. Give me one second. Plaintiffs' Exhibit Seventeen, you see that?
A: I do.
Q: Is seventeen an accurate and complete copy of your sales contract in this case?
A: It appears to be.
MR. SMITH: We offer Plaintiffs' Exhibit Seventeen into evidence. If it's not already been offered into evidence.
MR. WALKER: No objection.
THE COURT: Without objection.

(Plaintiffs' Exhibit Number Seventeen was admitted into evidence.)

Q: And you paid 25,000 for the Lake Access Lot, correct?

A: Yes.

Q: Okay. And it started off at a 110,000, correct?

A: I have no idea.

Q: Did you hear the testimony?

A: I did.

Q: Did you pay attention?

A: Sure.

Q: Okay.

A: But people lie.

Q: Twenty-Three's into evidence already as MLS produced by your real estate agent. You see where the original price is 110,000?

A: Well, it actually says Chrissie Campitella on it.

Q: I'm asking you, do you see where it says 110,000?

A: I do.

Q: Okay. Do you have any reason to believe that was not the original price?

A: I have no reason.

Q: And on Exhibit Seventeen, Plaintiffs' Seventeen, those are your initials that appear at the bottom of the first page, correct?
A: Yes.
Q: Page two?
A: Yes.
Q: And your initials on page three and four?
A: Yes.
Q: And your signature on page five of five, correct?
A: Yes.
Q: Okay. And let's look at page four of five where it says Contingencies. Do you see that?
A: Yes.
Q: And you initialed the contingency, right?
A: Yes.
Q: And this was your written offer to the sellers to buy the Lake Access Lot, correct?
A: Yes.
Q: And it says, and correct me if I'm wrong as we read this, "Buyers shall have the right to cancel this agreement without penalty (to include return of earnest money) by June 30, 2010, after consultation with buyer's attorney

and/or insurance carrier regarding potential liability." Do you see that?

A: Yes.

Q: Isn't it true that the potential liability here was that other folks had interest in this Lake Access Lot?

A: Well, you just said I couldn't discuss that.

Q: Is that true?

A: I have no idea.

Q: It's your contract and you have no idea what potential liability is, is that what you're saying?

A: This was a contingency that I had 30 days to cancel this contract.

Q: And you signed the document stating potential liability, correct?

A: Yes, the contingency.

Q: And you never asked an attorney or an insurance carrier about the potential liability, correct?

A: I was just told I couldn't talk about that.

Q: Well, you can answer yes or no to this question and we'll go to it.

A: Yes.

Q: Let's get the question for the judge, isn't

it true you did not ask an attorney or insurance carrier about the potential liability?

THE COURT: Hold on a minute. I'm not sure I heard, did you say you did not ask or did ask?

A: I'm more confused than you, Judge.

Q: I'm sorry. Let me rephrase it. It's a little late in the day. Isn't it true that you did not ask an attorney or insurance carrier about the potential liability listed on that page?

A: I did ask an attorney.

Q: If you would, under your deposition here, okay?

MR. SMITH: May I unseal his deposition?

THE COURT: Absolutely. I'm assuming y'all are waiving the foundational steps where he knows he's been deposed on the day he was sworn and all of that and you're just skipping through --

MR. SMITH: Trying to keep it simple.

Q: I'm going to hand you a copy of your deposition. You remember you taking the deposition?

A: I do.
Q: And you're under oath, correct?
A: Yes.
Q: If you would, please turn to page 17. I'm going to ask you the question beginning on line five. I'll wait until you get there. Are you there?
A: Yes.
Q: Page 17, question, and so after signing the document on 6/18/10, did you see anyone such as an insurance carrier or an attorney to discuss potential liability? What was your answer?
A: No.
Q: And you told the truth that day, didn't you?
A: Yes. But you asked me about this -- if I saw an attorney about signing this contingency. That's what you asked me. You referred this last question, your previous question.
Q: Did you obtain a permit to build an outhouse?
A: I obtained a permit from DHEC.
Q: To build the outhouse?
A: To put in a septic tank, a sewer.
Q: Okay. But you didn't obtain one to build the outhouse, did you?

A: Lexington County didn't require it.
Q: Okay. Let's try it again. Did you obtain a permit to build the outhouse?
A: No.
Q: Did you obtain a permit to build the gazebo?
A: No.
Q: The gazebo has a lock on it, correct?
A: Yes.
Q: And automatic codelock, correct?
A: Yes.
Q: And the gazebo and the outhouse have electricity, correct?
A: Yes.
Q: And the gazebo and dock were not constructed by licensed builders, were they?
A: No.
Q: And you testified that the homeowners can't use that outhouse and the gazebo because those are your personal property, correct?
A: Correct.
Q: And they can't use the dock because it's your personal property, correct?
A: Correct.
Q: Did you ever -- before building, did you ever ask any of the homeowners to chip in?

A: No. None of them ever asked me to chip in.
Q: My question is this to you: Before you started building, did you ask any of the homeowners to chip in?
A: No.
Q: And you never asked the sellers for permission to build a structure on the lake access, correct?
A: I asked at the closing.
Q: If you would, turn to page 26 of your deposition.
A: Twenty-six?
Q: Yes. On page 26, I'll read the question beginning on line three. Are you there?
A: Uh-huh (affirmative response).
Q: Who did you buy the property from? What was your answer?
A: The Colemans and the other family.
Q: Question, did you ever ask them for permission or consent to build a structure on that particular Lake Access Lot? What was your answer?
A: No.
Q: And you told the truth that day, didn't you?
A: Yes. And I stated earlier I didn't ask,

Christy asked.

Q: You throw parties for football games on the Lake Access Lot, correct?

A: Yes.

Q: And you guys drink alcohol during these parties?

A: Yes.

Q: And the folks that you have there park their vehicles on the lot, correct?

A: Yes.

Q: You agree the homeowners can park their boat trailers on your lot?

A: No.

Q: On the Lake Access Lot?

A: If I invite them, they can.

Q: Have you invited them?

A: No.

Q: And you testified that the other homeowners cannot throw a party there, correct?

A: Say that again.

Q: Sure. You testified the other homeowners cannot throw a party on the Lake Access Lot, correct?

A: They cannot.

Q: And they cannot have a barbeque there, can

they?
A: They cannot.
Q: As a matter of fact, did you testify earlier that Christy takes her dogs swimming down there?
A: Yes.
Q: Can the other homeowners take their dogs swimming there?
A: Some have.
Q: Okay. Can the homeowners in this lawsuit take their dogs swimming?
A: As long as they stay on the access road, yes.
Q: So they're going to be in the middle of the ramp with boats are coming up and down?
A: This isn't a thoroughfare. This is like one or two boats every six months. I mean, how long does a dog swim?
Q: When you purchased the lot, there was a fixed deck on the right side of the ramp, which is now the floor of the outhouse, correct?
A: No.
Q: Turn to page 45 of your deposition, please.
A: The fixed deck was not on the access lot.
Q: Please turn to page 45, please. I'll read the question on page 45 beginning with line

15. Question -- are you there?
A: Yes.
Q: When you purchased the Lake Access Lot, was there a fixed deck on the right side of the ramp? What was your answer?
A: The answer was yes. But you're asking me two different questions.
Q: Okay.
A: The first question you asked me just now, was it on the lot?
Q: Okay.
A: This question was asking me if it was on the right-side of the ramp.
Q: Okay. And you object now to the homeowners using the deck that you built, correct?
A: Yes.
Q: What kind of deck was there when you got there?
A: It was about eight by eight old wooden deck.
Q: And you got rid of it, used it as the floor to the outhouse, correct?
A: Yep. Refloored it.
Q: You believe any restrictions apply to the Lake Access Lot?
A: I'm not sure I understand your question.

Q: Sir, do you know of any restrictions that apply to the Lake Access Lot as we stand here today?
A: It's my understanding no restrictions apply to anything.
Q: Okay. So you could have a massage parlor there if you want, right?
A: I guess if I got a permit or a license for it.
Q: And you could open a Starbucks there, right?
A: Again, I would have to apply to the Lexington County.
Q: And you could start keeping your horses there instead of having them where you have them now, correct?
A: It's not big enough.
Q: Don't you have any little horses?
A: I do have them.
Q: And you knew when you purchased the property that none of the sellers were attorneys, didn't you?
A: Say that again?
Q: Sure. When you purchased the property from the Stoudenmires and the other family, you knew they weren't attorneys, didn't you?

A: I never asked them what they were.
Q: You're not suggesting you got legal advice from them that none of the restrictions apply, are you?
A: No.
MR. SMITH: That's all I have, Your Honor.
THE COURT: Anything on redirect?
MR. WALKER: I just want to be sure we're clear on one thing.

MR. SMITH - REDIRECT EXAMINATION BY MR. WALKER:

Q: If you would look at Exhibit One, Defendants' Exhibit One, are you familiar with that photograph?
A: I am.
Q: There were questions asked about the deck that was on the property when you purchased. Can you see it on that photograph?
A: I can.
Q: Is it on the Lake Access Lot or is it on the other property you purchased?
A: It's on the other property to the right-side of the ramp.
Q: If you take a good look at it, is it any marking on the deck, a color?
A: It looks like it's red.

Q: Okay. And following your purchase, did you and Ms. Bell -- I mean Ms. Brabham construct a deck in its place?
A: Yes.
Q: I'm going to show you Defendants' Exhibit Six. Is the new deck on the lake access parcel or your other property?
A: It's on the other property.
Q: The dock that you and Ms. Brabham got permitted and constructed, is it on the lake access parcel or your other property?
A: The other property.
MR. WALKER: I don't have any more questions, Judge.
MR. SMITH: Nothing further.
THE COURT: Thank you. You may step down.
MR. WALKER: Your Honor, we call Charles Coleman.
THE COURT: If you'll come forward and be sworn.
MR. WALKER: And this will be a very short witness and the last person I expect to call.
THE COURT: All right. Thank you.
CHARLES S. COLEMAN, JR., being duly sworn, testifies and examines as follows:
MR. WALKER: And I apologize, Judge, I got -- there it is.

MR. COLEMAN - DIRECT EXAMINATION BY MR. WALKER:

Q: Mr. Coleman, would you please tell the judge a little bit about who you are and what you do?

A: About my yard?

Q: Who you are and what you do?

A: Yes, I am Charles Coleman. I'm president of Coleman Construction Company in Columbia. We build contract houses and we do commercial work. And I've been doing it for some 45 years. And I worked with my father. He started the business maybe 60 years ago. Worked for him until he passed away 20 years ago.

Q: Okay. I want to hand you what's already in evidence as Plaintiffs' Exhibit Number Four. And ask you to look at paragraph number two. Would you just read what paragraph number two says?

A: It says, "No lot or property conveyed hereunder shall be used for any other than private residential purposes of one family, except by and with written consent and approval of the grantors."

Q: Following the passing of your father, are you

now an heir to the grantor?
A: That's correct.
Q: Can you have a single family home on the lake access property?
A: No.
Q: Just ask it a different way. Let's look at paragraph number three. I don't want you to read the whole thing aloud. I just want you to look at it. Is the last phrase in paragraph three refer to written approval by grantors of construction?
A: Yes. You talking about paragraph three where you have it highlighted.
Q: Well, that's not my highlighting, that's the Plaintiffs highlighting?
A: Is that right?
Q: Yes, sir.
A: So you're looking at the last sentence then?
Q: Yes, sir. I am. It might all be one sentence.
A: I guess he would highlight something other than you would, huh? Location thereof -- let's see. "Submitted by the Grantee to the Grantors or to a committee designated and applied in writing by the Grantors and then

only unless and until the Grantors, or their committee, have approved the same in writing by letter to the Grantee."

Q: Would you look at the first line of paragraph three? Does it refer to outbuildings at all?

A: Yes. It says, "No building, barn, outbuilding, fence, garage or structure of any kind or alterations or additions thereto shall be erected, placed or made on any lot hereby conveyed."

Q: Would you look at paragraph five with me? It's on page two. Does it make reference to where you have to put your trash can?

A: Yes.

Q: Where does it say you're suppose to put your trash can?

A: Behind your house.

Q: Can you build a house on the Lake Access Lot?

A: That's right, you cannot.

Q: Would you look at paragraph eleven for me? Would you read that for the record, please, sir?

A: "These covenants, conditions and restrictions are for the benefit of the Grantors who may change or modify the terms contained herein

at any time."

MR. WALKER: Your Honor, this is Defendant's Eleven. It's a recorded document and --

MR. SMITH: No objection.

MR. WALKER: -- pursuant to our stipulation is admitted.

THE COURT: Okay. What is it? It's a record of --

MR. WALKER: This is a modification that's entitled, Confirmatory Amendment to the Restrictions.

THE COURT: Okay. So this is something that's post the original restrictions?

MR. WALKER: This is 1999, after the original restrictions.

THE COURT: Okay.

(Defendants' Exhibit Number Eleven was marked for identification purposes.)

Q: And this isn't the greatest copy, but the text begins at the very bottom of the first page. And if I can impose on you to read that for the record, please sir.

A: "Not withstanding anything contained herein to the contrary, the covenants, conditions and restrictions are hereby imposed only upon those individually platted and numbered lots

shown on the plat prepared by Johnny T. Johnson & Associates, Incorporated dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60 those lots being Lots 1-16 Block "A", Lots 1-9, Block "B", Lots 1-6 Block "C" and Lots 1-2 Block "D". Nothing contained herein shall be" -- is that "construed to impose any covenants, conditions or restrictions on any property shown the aforesaid plat." It's not a very good copy. You're right.

Q: It's not. I'm going to hand you Plaintiffs' Exhibit Three, which is the subdivision plat. What number is assigned to the Lake Access Lot?

A: There is no number on the Lake Access Lot.

Q: Okay. And the document we were looking at, Defendants' Exhibit Eleven is executed in 1999. At that time did the grantors still own the lake access parcel?

A: Yes.

Q: Did they also still own the lot where Mr. Smith and Ms. Brabham bought and built their home?

A: That's correct.
Q: At that time, did the grantors own any other lots in the subdivision or not?
A: I think Mr. Smith's lot was the last one sold other than the Lake Access Lot. Mr. Smith's was the last residential lot sold.
Q: What objection do any of the grantors have to any of the improvements made by Mr. Smith and Ms. Brabham?
A: Absolutely none.
MR. WALKER: Your Honor, just one moment. I don't have any more questions, Judge.
THE COURT: Cross?
MR. SMITH: May it please the Court, Your Honor.
THE COURT: Yes, sir.
MR. COLEMAN - CROSS EXAMINATION BY MR. SMITH:
Q: Mr. Coleman, how are you?
A: Fine. How are you?
Q: Good. You ever sign a contract to buy a car before?
A: Yes.
Q: Usually several pages long?
A: Usually.
Q: You ever sign a contract to buy a house?
A: Yes.

Q: To get a house loan?
A: That's right.
Q: They're several pages long, aren't they?
A: That's correct.
Q: And you can't just pick out one little phrase in those documents and say that's what the document means. You've got to read the whole thing to see what it means, do you agree?
A: For the whole picture, yes.
Q: Oh, let's look at the Defendants' Exhibit Eleven. The one you just talked about, the 1999 modifications, okay? And we'll keep that plat here, because we're going to use it in just a minute.
A: All right.
Q: Okay. So you got a copy?
A: Yeah.
Q: It's right here. It's Defendants' Exhibit Eleven. Let's use the '99 first. Okay. And let's look at the first page. Let's look at this paragraph, the third paragraph down. Let me read it and you tell me if I read it right, okay?
A: All right.
Q: "Whereas, paragraph 12 of the Restrictions

intended to impose the Restrictions on the "lots". And lots in paretically, right?

A: Yes.

Q: "Shown on a plat prepared by Johnny T. Johnson & Associates, dated September 19, 1983, later revised and recorded in Lexington County RMC in Plat Book 194-G at Page 60," correct?

A: That's what it says.

Q: Well, this paragraph says, "Whereas, paragraph 12 of the restrictions intended to impose Restrictions on the "lots". And lots are in quotation marks, right?

A: Uh-huh (affirmative response).

Q: Is that a yes?

A: Yes.

Q: Okay. We can agree that the Lake Access Lot is a lot?

A: It's not a numbered lot. It's not a residential lot and that's what this refers to.

Q: Not asking what -- my question is very simple. It's a lot, correct?

A: Yes, it's a lot.

Q: Okay. Now, let's go to the next paragraph on

page one, because we've got to read the whole document as a whole, correct?

A: I guess we're going to do it.

Q: Okay. So I'll read the next paragraph on page one and you tell me if I read it properly, okay?

A: All right.

Q: "Whereas, as the aforesaid Plat Book 194-G at Page 60 also depicted certain other real property owned by Charles S. Coleman and E. L. Stoudenmire which other real property was not and is not a part of Hilton Place Subdivision and which other real property was not divided into "lots" at the time of the recording of the Restrictions." Do you see that?

A: Yes, I see it.

Q: Did I read it correctly?

A: Yeah.

Q: So this regards -- we're looking at Plaintiffs' Exhibit Number Three. Do you see this? You see this?

A: Do I see that?

Q: Yeah.

A: Yes, I see it.

Q: Okay. So all of Hilton Place Subdivision, they're all in lots, correct?
A: There all lots, yes.
Q: Okay. They're not all numbered though, are they?
A: No, they're not.
Q: Yeah, but the intent this says whereas the aforesaid Plat Book also depicts certain other real property which other real property was not part of Hilton Place Subdivision and was not divided into lots. Can we agree that the Lake Access Lot is part of Hilton Place Subdivision?
A: It's part of Hilton Place Subdivision, but it's a lake access.
Q: Okay. And can we agree that that's a lot in Hilton Place Subdivision?
A: It's not a buildable lot for a residence.
Q: Can we agree that it's in Hilton Place Subdivision?
A: It's a lot.
Q: Okay.
A: It's a lot.
Q: Can we agree that it's in Hilton Place Subdivision?

A: That's correct.
Q: Okay. And would you agree that when you read all this document, that number one, it doesn't mention the Lake Access Lot particularly, does it?
A: You have to use a little common sense when you read the whole thing.
Q: Do you understand my question?
A: It is intended to be for numbered lots only.
Q: Do you understand my question?
A: Yeah.
Q: Okay. My question is this, does this two-page document specifically refer to the Lake Access Lot?
A: I'm not positive it does.
Q: If you think it does, show me where it does. Show me on this two-page document, Defense Exhibit Eleven?
A: All of these are numbered lots and they're residential lots. That doesn't have a number on it, it's not a residential lot, so this doesn't apply to that.
Q: Did you understand my question?
A: Maybe not.
Q: Okay. What was my question?

A: You asking me?
Q: Yes.
A: I say maybe I didn't understand it.
Q: Okay. So let's don't talk over each other. Let me finish my question and you respond. Can you do that?
A: Yeah, that would be fine.
Q: Okay. Show me in Defendants' Exhibit Eleven where it specifically addresses the Lake Access Lot.
A: It doesn't say anything about it in here.
Q: It doesn't, does it?
A: No.
Q: As a matter of fact, the only time it mentions anything about the Lake Access Lot, it talks about on page one, that there's some lots, some pieces of property that are already made into lots, correct?
A: I assume so.
Q: And the next paragraph says, there's some property on this plat that is not yet in lots, correct?
A: That's right. Yeah, all this.
Q: Okay. You say all this. I'll tell you what, we going do some highlighting. With red

highlighter on Plaintiffs' Exhibit Three, circle around the pieces of property you just showed me that is not divided into lots?

A: Of course, it's been sold since then.

Q: So on Plaintiffs' Exhibit Three the red highlight is the portion of the plat that has not been divided into lots, correct?

A: That's right.

Q: Okay. And can we agree that the intent of the Defendants' Exhibit Eleven is to not make the red highlighted areas subject to the restrictions?

A: You're saying that that intent was not to make this area subject to restrictions?

Q: Yes, sir.

A: I don't know whether that's true or not.

Q: Doesn't it say that for the pieces of property not divided into lots, we don't want them restricted?

A: Yes, that's true. The lake access is not a lot, a residential lot that can be covered under this.

Q: Where does it say somewhere where the lake access is not a residential lot? Show me that.

A: I just read it in the --
Q: Can you tell me somewhere in there it says the Lake Access Lot is not a residential lot? Please point that out to me.
MR. WALKER: Please let the witness finish his answer.
THE COURT: Do let him respond.
A: Not withstanding anything contained herein to the contrary, the covenants, conditions and restrictions are hereby imposed only on those individual platted and numbered lots as shown on the plat by Johnny T. Johnson & Associates. And it tells you which lots there are and it does not include the lake access.
Q: It doesn't mean Lake Access Lot in there at all, does it?
MR. WALKER: Please get away from the witness. I ask you to instruct him to not --
THE COURT: It is kind of warm in here. Back off.
MR. SMITH: Be glad to, Your Honor. I was close enough to point, so we know what we're talking about.
THE WITNESS: I don't mind him being over here.
MR. WALKER: I can give him a copy, so they can go

--

THE COURT: Well, wait a minute, because you're kind of standing between him and his counsel now. So just, I'm sure y'all can work it out without getting on top of each other.

Q: So the first paragraph on page two, Defendants' Exhibit Eleven does not mention the Lake Access Lot, does it?

A: No, it doesn't. It mentions all the other lots that are covered by the restrictions.

Q: As a matter of fact --

A: As a matter of fact by omission, it does exclude that.

Q: Show me where it says that in the document?

A: It doesn't say that.

Q: So that's only your conclusion?

A: Well, it's a reasonable conclusion. It tells you what it does include and this paragraph doesn't say anything about the access lot. It does mention all the numbered lots.

Q: But on the first page, it does mention all --

A: What is that a conflict?

Q: May I finish? No, I think it's consistent. On the first page it mentions all lots that have been subdivided are subject to

restrictions. All the ones that not are in your red area, right?

A: Well, I don't know. These and this one.

Q: When we look at the original restrictions, do you see Plaintiffs' Exhibit Four?

A: Let me finish drawing my thing here. This as well.

Q: Okay. Did you put a red mark around the Lake Access Lot?

A: Yeah.

Q: Okay. I asked you to put a red mark around all property that's not been divided into lots?

A: That's right.

Q: Do you agree the Lake Access Lot is a lot?

A: It hasn't been divided into -- that's one that was not divided to be a lot. When this property was divided, that was not to be --

MR. WALKER: Your Honor, would you please instruct counsel to quit hovering over the witness.

THE COURT: Let him -- just back up a little bit, please.

MR. SMITH: Thank you, Your Honor.

THE COURT: And I think counsel has a right to kind of see his witness too. So just make sure

everybody's got a good view, where we can see what's going on. And I will remind both witness and attorney, we've got a court reporter and it's hard to take it down when two people are talking at one time. So let each person finish what they're saying before there is a response made.

THE WITNESS: I understand.

THE COURT: All right.

Q: So is it your opinion that the Lake Access Lot has no restrictions?

A: That is my opinion.

Q: So someone could put a massage parlor there?

A: I don't think that would be very advisable.

Q: That's not my question?

A: You got to use common sense again, Mr. Smith. No, nobody would put a massage parlor up there.

Q: Somebody put an outhouse there, didn't they?

A: I don't know that that's an outhouse. It's a bathroom.

Q: Somebody could put a horse trailer there and keep it there with horses in it, couldn't they?

A: Well, I guess they could.

Q: Do you think it's reasonable that the Lake Access Lot would have no restrictions and someone would put a massage parlor there or a horse barn?

A: No, I don't think it's reasonable to have a massage parlor there or a horse barn.

Q: Can you show me the documents where the grantors notified the homeowners that that particular 1999 modification was being issued?

A: No.

Q: There aren't any documents, are they?

A: I don't know of one.

Q: And can you show me any documents showing a written consent of any of the homeowners to the modifications issued in 1999?

A: No.

Q: Thank you for your testimony.

A: You're quite welcome.

MR. WALKER: I don't have any further questions, Your Honor. And the Defense would rest.

THE COURT: Thank you. You can step down. All right. We're going to take a 10 minute break. And when we come back I'm going to ask y'all both to give just a very brief closing and then I've got a series of

questions I want you to address, I think based on what I think you're going to tell me. All right. So everybody go stand up, stretch. We'll back at 3:45. You're excused until then. We'll have closings, very brief closings.

(Off the Record)

THE COURT: Mr. Smith, just a very brief closing summary.

CLOSING SUMMARY ON BEHALF OF THE PLAINTIFFS:

MR. SMITH: May it please the Court. First of all, my clients thank the Court for giving them a day in court. I thank the parties, even through all this when they see each other in the neighborhood, they've not had any outbursts or fights or anything where they needed to call the law even though this is a very charged issue. And we thank you for our day in court. On the issue of reaching restrictions that are pertinent to land, we think the 1983 restrictions are the ones that count. It says it applies to all lots. Lake access lot is a lot. Sissy Freeman, one of the Defendants and daughter of one of the original grantors, admits that the 1983

restrictions apply to this particular lot. There's an argument in the case that the 1999 modifications count. The laws will settle it. A covenant restriction is exactly like a contract. Folks have to agree to it as a general rule. I've got three folks here today who purchased their property before 1999 and they did not consent to any further modifications. The question in equity becomes if they purchased before 1999 and they were aware of the 1983 restrictions, shouldn't they be able to rely on that so that one last lot and piece of property in the subdivision is subject to the same restrictions? I think equity weighs greatly in their favor. On the 1999 modifications we believe you've got to read the restriction like a contract, read it as a whole and give every part meaning just like the law requires. On the first page the intent is there. It says, hey, we've got this big plat, we've got Hilton Place Subdivision, and we have this other property. We don't want this other property to be subject to restrictions, rather we want Hilton Place Subdivision to be subject to

restrictions. We think when you read the document as a whole that's the only conclusion. But even if the Court disagrees, number one, my clients didn't agree to the 1999 modifications. Just as importantly, the 1999 modifications don't meet the legal test set forth in Queens Grant II. Number one, there was no notice to anybody as required. And number two, the '99 modifications are not reasonable if you think that affects the Lake Access Lot. Why, because that would mean there's absolutely no restrictions, which the Lake Access Lot is subject to. Therefore, under Queens Grant II, even if the Court disagrees, then the document itself doesn't rise to the level of enforceable in subject to those particular 1999 modifications. The scope of my Plaintiffs' right in the lot, in all honesty, we have one document and one piece of evidence in this case which is neutral. The original grantors and only one document indicated their intent as far as scope of my clients rights. It's on page two of Elizabeth Snow's deed. That's the one that the original grantor actually prepared

and gave Ms. Snow. "Also conveyed herewith is an easement for the use and enjoyment by the lot owner and the lot owners immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be a appurtenant to the land, herein conveyed." There's no piece of evidence in this case that restricts my clients use of that lot to only that one path. There's nothing anywhere. There's nothing written. There's nothing verbal. Therefore, we believe the scope of the easement or the scope of the rights that my clients have encompassed the entire piece of land. We do believe that the grantors have breached their fiduciary duty in this case. As a general rule under South Carolina law grantors, developers have a fiduciary duty to the homeowners to do certain things. One of those duties is you can't convey common property to a single person. You have to convey it, number one, to the homeowners. And number two, it is the developer, as a legal matter, who is responsible for upkeep and when it's transferred it has to be up to speed.

Therefore, regarding breach of fiduciary duty, we think the transfer itself is a breach of fiduciary duty. On the issue of fraud, we also have that in our complaint. What's the fraud in this case, we've got 1983 restrictions that say it applies to all of us. And my folks have always abided by that regarding the Lake Access Lot. And then at closing in 2010 Sissy Freeman tells the other side that he can build on it. You can do this to it. You can do this to it. The '99 modifications have the same effect. It's also fraud if the '99 modifications take the Lake Access Lot out from under the scope of the restrictions. Why, because my folks relied on it. It's a statement made in writing by the developers. My folks relied upon it. To their detriment if this Court finds that the 1999 modifications somehow don't -- somehow take the Lake Access Lot out of the 1983 modifications. Finally, the big picture stuff. What happens if Defense is right? What happens if there's actually no restrictions in this case that apply to the Lake Access Lot? Your Honor, we already have

an outhouse. You know, what's next? Does he put his horse barn there? Does he put a massage parlor there? I might be going from the sublime to the ridiculous, but we've already seen what happens when there are restrictions. What happens when there's no restrictions? What about my clients' reasonable expectations that all lots in the subdivision would have some uniformity? There's been absolutely no evidence offered by the Defense in this case that the plan and scheme of the neighborhood is broken down and that, therefore, they're somehow relieved of the duty to abide by the restrictions. With that said, we would ask that the Court find that the 1983 restrictions apply. That the Lake Access Lot, Mr. Smith and Ms. Bell, they violate them. We'd ask to go back to the status quo. But if the Court disagrees, then we believe there's serious breach of fiduciary duties, including the transfer of the lot itself. And then we would ask for damages.

THE COURT: All right. I want to make sure I understood what you just said at the end. Your first thing is is you believe that, and

I'm assuming this is what you're saying, that the structures that have been placed on it have to be removed?

MR. SMITH: Yes, sir.

THE COURT: From the entire lake access. There cannot be a structure placed on it?

MR. SMITH: Yes, sir.

THE COURT: And as an alternative, if they're not removed, then -- say what you said at the end.

MR. SMITH: There's a breach of fiduciary duty by the grantors. The grantors told the buyers that they could put things on there. And the grantors, the developers, they had a duty to my clients to transfer the common property only to my homeowners and not a third person. Therefore --

THE COURT: Hold on. And that duty that you're arguing that the developer had to transfer common property to them after they granted an easement is based upon --

MR. SMITH: There's a case. It's called --

THE COURT: Well, no, no, I understand what the case law says about common property. But I guess what I'm asking you is, is there

something in the restrictions that says this is common property to be sent to the homeowner's association?

MR. SMITH: No, that's not in the restrictions.

THE COURT: Okay.

MR. SMITH: But they testified to it. We have a 1992-homeowner's association. And we have the testimony from Sissy Freeman who testified that her father, the original developer, his intent was to form a homeowner's association.

THE COURT: Hold on a minute. Because I want to make sure everybody understands. I'm going to be doing some devil's advocate to both sides. So don't anybody get squirrely right now. All right. The homeowner's association was never formed. You would agree with me that if a subdivision is developed, you can't thereafter force people to join a homeowner's association?

MR. SMITH: Agreed.

THE COURT: So if there's no homeowner's association formed, 14 people can get together, 13 people can get together, but they cannot force the other people into joining the homeowner's association.

MR. SMITH: Agreed.

THE COURT: Okay. All right.

MR. SMITH: But he still had a duty not to transfer to a single individual.

THE COURT: If it's a common element.

MR. SMITH: That's correct. There was testimony, we have documentary, we have meeting minutes, and we have the testimony of Sissy Freeman who indicated yes, this was intended to be common property. The entire thing used by all for picnicking, swimming, et cetera. Therefore, we submit it's common property. And so what do you do with common property? Number one, you can't sell it to one person, because other folks have at least an equitable interest in it, if not a legal interest. You know, what you got to do? You have to give it to the whole. We've got to do something with it, other than what this particular group of grantors did. Therefore, there's the breach. The moment you transferred it. The moment you sell it. The actual grantors, the developers, they had a duty to maintain it. They had been paid and received money for years, and years, and

years, the original developers and then their successors. They've got duties to my clients they didn't fulfill.

THE COURT: All right. Okay. All right. Thank you. Yes, sir.

CLOSING SUMMARY ON BEHALF OF THE DEFENDANTS:

MR. WALKER: Your Honor, I'll be very brief. The genesis of this whole problem is the plat, which I believe is Exhibit Three for the Plaintiff. And it contains two words on the space occupied by this property. It says lake access. The restrictions make no reference to lake access specifically. The restrictions do not establish homeowner's association. The restrictions do not impose any assessments that could be used to fund improvements to anything, pay taxes, build a playground, none of the legal infrastructure for a common area existed. We have testimony from Ms. Freeman saying, daddy said this lot was to be used by off lake owners for access to the lake. And we agree people in that are in the subdivision have the right to come and go to get access to the lake. We have no intention whatsoever to interfere with that

right of access. But there's nothing in the restrictions, the plat, any document that indicate that the Plaintiffs have what they describe in their complaint as unfettered access to the entire parcel. So our view of the case simply is they have a right of access, we don't want to interfere with that and don't intend to in the future. This is not one of those cases where there's a gate up, there's a trench dug, there's dirt mounted up six feet high.

THE COURT: We're going to talk about that in minute when I get to my questions.

MR. WALKER: Okay. But our intention is to not interfere with their right of access. The restrictions were modified in 1999. The grantors still owned at least one residential lot in addition to the common area at that time.

THE COURT: All right. Hold on. Let me ask you something about that. And this will be a -- Plaintiff says modification not valid due to Queens Grant. Queens Grant, I believe if I'm thinking of the same case, says for a grantor to change restrictions after they've deeded it

they've got to meet five things, okay. Now, what I want to know is, is in the original restrictions did it contain a mechanism for modifying the restrictions. Because -- and y'all both correct me if I'm wrong, but I believe at that point in 1999 that the restrictions were modified, grantors still owned one lot; is that correct?

MR. SMITH: At least one.

MR. WALKER: At least one.

THE COURT: At least one. So this is not a question of grantor after they sold all the lots coming back and trying to assign it to somebody down the chain or doing it after they did it. So we're in the body of case law that they still own a lot, but they are modifying it after they've sold lots. So the question I have to you is, is did the original restrictions, did the '83 restrictions set out an amendment process?

MR. WALKER: They do not -- nothing you and I would describe as a process. They simply reserve the right under the grantors to modify the restrictions. It's paragraph 11.

THE COURT: Okay. All right. I'll address that

issue then and I've got about nine questions, so go forth.

MR. WALKER: Actually, let me go backwards a step. There are portions of the 1983 restrictions that logically can't apply to the lake access parcel. So we believe that raises questions about whether they were intended to have been subject to the '83 restrictions in the first place. They just don't fit. You can't build a home on it. There's no home to put a garbage can behind. And, Your Honor, our paragraph three of the restriction says, you can't build a fence, specifically refers to outbuildings without the grantors check mark. And we got evidence from Mr. Coleman that the grantors do not object to the improvements made by the current owners of the fee simple lot, which has an access imposed on it. And, Your Honor, they have a right of access and the law in this state is clear that they have to exercise that right in a fashion least burdensome to the owner of the underlying estate. And for them to come and go, not a problem. But for them to claim the right to use all these facilities makes their use

vastly more burdensome to the owner of the underlying fee. To the extent there's any ambiguity in what their right is, the law says it should be read in a fashion least restricted to my client's rights. So I think a reading of the lake access language on the plat clearly says all these people who live in the subdivision absolutely have a right of ingress and egress. They have access to the lake. But it's our position that they can exercise that right, have all the benefits intended by the grantors without starting a fire in our fire pit that they can't control, hurting some of their kids if fires get out of control. And we can go on down the line. My people have to clean up behind them, because they own the fee. So our position very simply is nobody's done anything wrong. These grantors were stuck with fee title to a property with an easement imposed on it. And nobody was getting any real benefit from it. And again, I'll go back to something I'm positive when we started. I view my guys like the guy who did the Cockabooses. He saw a diamond in the rough and took the fee title

that these people had and didn't really know what to do with and did something with it. And he did it, not only without interfering their access to the lake, but he's improved it. The road's smoother. You heard his testimony, people were busting tires trying to get down there. If anything, their ability -- the Plaintiffs' ability to exercise their rights is not being impeded by us. And any specific questions you have about fraud or there's a claim of public dedication, anything you want me to specifically address I will. But it's my position that the grantors didn't make any false representations to anybody in this case.

THE COURT: All right. So your position is stuff stays up. They got a right to use the access to the water.

MR. WALKER: Absolutely.

THE COURT: Okay. All right. That one sentence summary?

MR. WALKER: Yes, sir.

THE COURT: All right. Now, will you get the big exhibit and bring it up to me? All right. First of all, I too want to thank everybody.

It's 4:00. It's been a long day. There is a reason that a Master in Equity Court is in courtroom 2A and all the domestic courts are 2B, 2C, and 2D, because we deal with very emotionally charged issues with real estate disputes. And I appreciate everybody's zealousness, your preparation and your demeanor today, because it could get kind of tense, as all lawsuits are. But I appreciate everybody's professionalism. Two housekeeping things. Attorneys' make sure that y'all agree on all the exhibits. My recollection is that the Plaintiff has handed up proposed exhibits, one through Twenty-Six. I believe they all went in. All right. I believe Defendant had --

MR. WALKER: It's through Eleven, Your Honor.

THE COURT: Eleven, through Eleven. Make sure that before Madam Court Reporter leaves, she has all those exhibits. Okay. All right. Because I want them with the original transcript that you're going to send me. And again, as we said once she sends that to me, you contact her to get your copy and then you've got four weeks to submit the memo.

Now, what I'm about to go through is in addition to things y'all might want to tell me. So if there's things you want to tell me or you think I've missed, tell me, okay? All right. But I've got a bunch of specific questions that I want you to address. Because there's two lines of cases here that come into play I believe. All right. The first thing I want you to do is when you send in your memos, I want y'all to either do a joint plat that y'all agree on that shows me where the structures are and which structures are on the lake access piece and what y'all have referred to the other property. Because y'all were doing a lot of good, great drawing and highlighting down there that I didn't see. So it'll be in with the original transcript, so when you do that, make sure that I've got a good visual representation about what we're talking about. Because I don't think I've heard an argument that stuff on the underwater track is at play. That's correct?

MR. SMITH: Yes, sir.

THE COURT: Okay. So I just want to make sure I

understand that. The second thing is, is there has been questioning and testimony about when people knew things, when things got billed, when people got notice, when people said things. I want a timeline from each of you that says, you know, this is when we bought it, this is when we got the letter, this is when this was built, this is when this happened. I want a chronological timeline so I can see that. Now, here's one of the key issues in the case. We have all -- not we -- y'all have used terms interchangeably. We said easement, we've said access, and we've said common area. All right. Something, something got conveyed by the grantors out to these individual folks. The document that's highlighted says easement. Now, if you convey an easement and it says appurtenant to the land, so it's got easement language also conveyed, if you convey an easement to somebody, my understanding of the law is as Defendant has eluded, is that you haven't conveyed the whole fee. You've conveyed an easement, which means you give somebody the right to use or travel over you.

For example, in a subdivision, if you live in a subdivision, you can have an easement to Direct TV, I guess, a cable line or a water line. Very often, the easement say, my easement is 30 feet wide. Cable ain't 30 feet wide. Cable's this big around. So the question is then, because there's case law in this, is if I own the dirt that there's an easement through, can I put stuff on top of the dirt I own at all? Because what the Plaintiff is arguing is, is you can't put stuff at all on the dirt they own. Can't do it. All right. So I want to see and hear argument about case law about the fee owner, who in this case, and it's in reverse I think, is the servient tenant and then the dominant owner who gets to use it. All right. There are also a lot of cases, if this is an easement case, that talk about can I put a gate up? Can I put a fence up? Can a court relocate it? How you overburden an easement? What happens if I obstruct an easement? There are all kinds of easement cases. So one question is, if this is an easement, is the easement construed from

corner to corner of the lot. I mean, if the road is 15 feet wide and the entire lot's 50 feet, does that mean you can't do anything with the other dirt you own? All right. There's case law out there about that, if this is an easement. So I want you to address the easement aspect of it, what can an owner do with the dirt they own. Now, clearly both of y'all have agreed that whatever this is, easement or an access, which is essentially the same thing, common area could be a different animal, that you can't block the access to the lake. So I don't think there's anybody arguing that the access can't be obstructed. Now, everybody also knows that if you live in a subdivision, you're going to have temporary obstructions. I mean you are. I mean neighbors back cars up, you know, in your driveway. That happens. But it can't be repetitive. It can't be a pattern. And people got to move it if they're asked. All right. So there's a law on that type of thing, which is a temporary obstruction versus a permanent obstruction. But there's a lot of case law

in easements about can you put a gate across SCE&G's power line? Can you in your backyard when the power line runs under there, can you put a gazebo over the top of it, you know, can they make you move it? There's a lot of case law out there about that, about easement law. Now, if it is a common area, if it's a common area by the documents, then there's a whole other set of cases about what common areas are for. Common areas are areas. They're not right of way, not easements. They're different things. So I want to know -- I want y'all to convince me of whether it's easement or common area. And documents say what they say. The next thing is -- and that analysis kind of goes for Defendant. They're not obstructing it. Now, second line of easement cases kind of hangs the other way. If -- and you brought this up, about who gets the benefit of the construction. The ordinary rule in contract construction is the person who drafted it -- so you get the -- is it construed for him or against him. All right, attorneys?

MR. SMITH: It's against the drafter.

MR. WALKER: It's against the drafter.

THE COURT: It's against the drafter. Okay. So the grantor drafted some stuff. What does it mean if it construed against him? All right. Does it mean he's just limited to the physical easement or does it mean the easement goes from border to border of the piece. All right. I want to hear some argument on that because y'all have headed into a legal dead end. And that dead end is this, y'all have both talked about, through witnesses and argument, the intention of the grantor. You've also both argued, we don't need to talk about the intention because it's clear, right? It's either clear. It's either ambiguous or it's unambiguous, right? If it's unambiguous, then you have to get into intention, right? But if you construe it against the grantor, how do you ever get into the unambiguous discussion? All right. So I want you to address that. I mean, how does that play out in here? All right. The next question is, is are the subdivision restrictions binding on the lot? What y'all have both argued is, Plaintiff has argued the

subdivision restrictions apply to the lot. Defendant has argued, no they don't. It's clear -- the clear construction is, is the subdivision restrictions are meant to be for the house lots. Subdivision is a place for a house. Plaintiffs arguing, well, not necessarily, because if you say that it's unrestricted, then you could do anything on that lot. And is that true? Is it true that you could do anything on that lot, that was sold completely unencumbered right there where it says convey for easement and the only restriction whatsoever on that piece of dirt is an easement for ingress and -- whatever it says, for lake access. Okay? All right. I want y'all to address that. All right. One moment. All right. Is this any different -- and I want y'all to address this. When Defendant bought the lot, the Lake Access Lot, they bought the lot, I think y'all would both agree, subject to whatever affects that property on record. And again, we're back to the argument that Plaintiff is saying the restrictions, if an easement conveyed, they bought it subject to whatever effects it.

Plaintiffs' arguing the same restrictions from the overall subdivision affect the lake access. And Defendant is saying, no, they don't, because all it says is lake access. Is that my understanding?

MR. SMITH: Yes, sir.

MR. WALKER: Yes, sir.

THE COURT: All right. So I want to know the whether we're an easement or whether we're a common area. I want to know about the legal impact of the modification. I can figure out the time line and where the stuff is. And then I want to know about what the guy who owns the dirt or in this case, the man and woman who own the dirt, do they a right to do something with that dirt, other than pay taxes on it. I mean, they can't build -- on argument is they can't put a structure on it, they can't put anything on it, because our access means we go from corner to corner. And you can't put anything on it. My question is, is that correct? Or can you put something on it, so long as it does not interfere with the purpose of the easement? I guess that's what I want to know. All

right. Does that kind of make sense?

MR. SMITH: Yes, sir.

MR. WALKER: Yes, sir.

THE COURT: All right. Now, again, if there is anything else that I'm missing, if I'm leaving out an issue, just say that was all nice you going on and on and on and on about that, but you forgot this issue. We argue this -- but does that seemed to be, based on what you argued today in your closing statements, there was some other stuff plead and y'all sort of talked about, but you didn't get into, but this seems to be the issues that you've stated. If there's something else, both of y'all bring it up. All right. Anything further?

MR. SMITH: Nothing from the Plaintiffs.

MR. WALKER: No, sir.

THE COURT: All right. Thank y'all both. All right. And I thank everybody else. Thank you.

(There being no further questions, the deposition concluded at 4:14 p.m.)

CERTIFICATE

This is to certify that the within hearing consisting of two hundred seventy (270) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on August 15, 2013.

N. Garrett

Nadine A. Garrett
Court Reporter

Notary Public for South Carolina
My Commission Expires: 8/11/2016

CALL GORDON REALTY 345-3450

PLAINTIFF'S EXHIBIT 1

GORDON REALTY CO., INC.

SALES • LEASE • LAND

Mail: P.O. Box 158 • Chapin, South Carolina 29036 • Highway 76 • Telephone (803) 345-3450

CHAPIN, S.C. 29036

CONTRACT OF SALE

(This is a Uniform Contract as endorsed by the Columbia Board of Realtors)

DATE A Contract to purchase is offered this 4th day of April 19 90

by Elizabeth S. Bell

Purchaser(s) to Charles S. Coleman Seller(s).

OFFER AND DESCRIPTION Purchaser agrees to buy and Seller agrees to sell all that lot or parcel of land, with the buildings and improvements thereon, if any situated in Lexington County, State of South Carolina and being described as follows

Lot 6 - Block C - Hilton Place on Killian Pt.

CONVEYANCE SHALL BE MADE Conveyance shall be made subject to all covenants of record (Provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations.

PRICE The Purchase price is $ ~~12,000.00~~ 14,000.00 ESB to be paid as follows:

Cash ____ Check ____ Other ESB ... $ ~~600~~

herewith which shall be held in trust by GORDON REALTY COMPANY, INC. AGENT, as deposit of earnest and ... $ ~~2,000~~ 2,200

upon delivery of a deed as hereinafter provided, and the balance as follows:

FINANCING FHA ____ VA ____ CONVENTIONAL FIXED ✓ CONVENTIONAL ADJUSTABLE ____ (80% ✓ 90% ____ 95% ____)

SELLER ____ loan to be obtained by the Purchaser in the amount of ... $ ~~78,400~~

CONTINGENCIES THIS OFFER IS CONTINGENT UPON THE ABILITY OF THE PURCHASER TO:

[✓] OBTAIN FINANCING AS INDICATED ABOVE.

[ ] COMPLETE THE SALE AND CLOSING OF PURCHASER'S HOME LOCATED AT ~~[illegible]~~ ESB ~~[illegible]~~ 11,200

IT IS FURTHER AGREED THAT IN THE EVENT THAT SELLER RECEIVES ~~AND ACCEPTS~~ ANOTHER OFFER ON THE PROPERTY, PURCHASER WILL BE GIVEN ____ HOURS AFTER HE OR HIS AGENT HAS BEEN NOTIFIED OF THE EXISTENCE OF THE NEW AGREEMENT TO REMOVE THIS CONTINGENCY THROUGH WRITTEN NOTICE OR THIS CONTRACT WILL BE NULL AND VOID IN ORDER FOR PURCHASER TO REMOVE THIS CONTINGENCY, PURCHASER MUST FIRST SATISFY SELLER OR HIS AGENT THAT ANY FINANCING REQUIRED UNDER THIS AGREEMENT WILL BE GRANTED WITHOUT THE SALE OF THE AFOREMENTIONED PROPERTY.

[ ] OTHER ____

CLOSING COSTS If a new loan is obtained: Closing cost to be paid by the PURCHASER

Prepaid items by the PURCHASER PMI, FHA-MIP, or VA Funding Fee by the PURCHASER

DISCOUNT POINTS Discount Points to be paid by N/A (if any)

LOAN PROCESSING AND APPLICATION It is understood that the Purchaser will advance, in addition to the earnest money, the necessary money to process this sale. Purchaser also agrees to apply for financing as called for above, from the institution, within 20 days from date of execution of this Contract and provide for all documents or information requested by the lending company in a prompt and timely manner.

OWNER FINANCING If owner financing is included in the financing of this property, GORDON REALTY COMPANY, INC. and/or the broker(s) and agent(s) in this transaction makes no representation as to the credit worthiness of Purchaser and suggests that Seller determine for himself that Purchaser's credit is satisfactory.

LOAN ASSUMPTION ONLY Purchaser agrees to assume the existing mortgage with a principal balance in an approximate amount of $ N/A Should the principal balance be more or less, it is agreed by both parties hereto that the total sales price will be adjusted accordingly. The Purchaser is purchasing the Seller's equity for the specific amount of $ N/A and assuming the mortgage. Seller agrees to maintain the mortgage payments, including escrow funds, in a current status until the sale is consummated. This contract is contingent upon mortgagee permitting mortgage to be assumed. Cost of transferring mortgage, recording fees and attorney fees to be paid by Purchaser.

The escrow account for Taxes and insurance will be assigned to the Purchaser without/with proprations. Seller is to make the payment due N/A 19 N/A without further adjustment unless stated otherwise in this portion of the Contract. Purchaser is to make payment due N/A 19 N/A without further adjustment, unless stated otherwise in this portion of the Contract.

CONVEYANCE DATE OF CLOSING Seller agrees to convey by marketable title and deliver a proper statutory warranty-deed with dower duly renounced if applicable and free of encumbrances, except as herein stated, with all stamps affixed thereto. The deed shall be prepared in the name of William F. Bell and delivered at the office of Gordon Realty or stipulated place of closing and transaction closed on or before May 4 19 90

POSSESSION Possession of said premises will be given Purchaser on or before At Closing 19

CONDITIONS Property being sold in as in condition with the following stipulations: (#1) Lot to perk for 3 bedroom home. (#2) If applicable, seller to pay roll-back taxes (#3) Lake access lot is available for purchaser's use at time of closing

(if additional space is needed, attach addendum)

FIXTURES AND PERSONAL PROPERTY This sale includes all improvements, fixtures and appurtenances in addition to certain personal property hereinafter stated -0-

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ADJUSTMENTS Taxes, water, rents, sewer charges, fuel oil, lights, rents as when collected, homeowners association fees, and other assessments shall be adjusted as of the date of the closing. Tax prorations pursuant to this contract are based on the taxes of record on this date and are, therefore, prorated on this basis. Any increase or decrease of taxes shall be subject to an adjustment by the Purchaser and/or Seller when the current year's taxes are determined. If this transaction involves an assumption of the existing mortgage, the proration of taxes and interest will be dealt with under the loan assumption section of this contract.

FIRE OR CASUALTY In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Purchaser shall have the option for ten (10) days thereafter of proceeding hereunder, with an agreed adjustment in the purchase price, or of terminating this agreement and being paid hereunder.

DEFAULT If the Purchaser shall default under this agreement, the Seller shall have the option of suing for damages including but not limited to reasonable attorney's fees or rescinding this contract in the event the contract is rescinded, one-half of the earnest money shall then be paid to the Broker(s), not to exceed the commission due such Broker, and the remaining balance of earnest money shall be paid to the Seller. Upon default the Seller, the Purchaser shall have the option of suing for damages or specific performance or rescinding this contract. Upon default by the Seller, if the Purchaser elects to rescind this agreement, he will be refunded all sums paid hereunder and in addition, shall be reimbursed by the Seller for actual costs incurred including but not limited to credit report, appraisal fee, survey, cost of title examination.

EFFECT OF CONTRACT The parties hereto further agree that this written contract expresses the entire agreement between the parties, and that there is no other agreement oral or otherwise, modifying the terms hereunder.

BINDING CONTRACT This contract shall be binding on both parties, their principals, heirs, personal representatives and assigns as state law permits.

EARNEST MONEY Broker does not guarantee payment of check or checks accepted as earnest money. If any contingency of this contract cannot be satisfied by no fault of Purchasers, the earnest money will be refunded. Earnest money is to be deposited in **GORDON REALTY COMPANY, INC.** escrow account on or before the next banking day after acceptance by both parties of this contract unless Seller agrees in writing otherwise.

SURVEY **GORDON REALTY COMPANY, INC.** recommends Purchaser to have a survey of subject property.

TITLE EXAMINATION **GORDON REALTY COMPANY, INC.** recommends that Purchaser(s) have an attorney of choice examine the title of subject property.

(E S B)
Purchaser's Initials

( )
Seller's Initials

DISBURSING AGENT It is agreed by both parties that all money under this contract shall pass through the hands of **GORDON REALTY COMPANY, INC.** or its attorneys and they shall act as disbursing agent for both parties herein.

EXTENSION AGREEMENT Time is of the essence, however, if the loan has been approved but not closed within the stipulated time limits of this contract, then both parties agree to extend said contract for a period not to exceed 10 days from the date designated for original closing.

CASHIER'S CHECK Purchaser must have cash, cashier's check, or certified funds when completing this transaction.

CONDITION OF PROPERTY

a. The Purchaser acknowledges that **GORDON REALTY COMPANY, INC.** and/or the broker(s) and agent(s) in this transaction give no guarantee or warranty of any kind, either expressed or implied as to the physical condition of the property, and they give no guarantee or warranty concerning any certification or inspection concerning the condition of the property.

b. The Seller warrants the heating, air conditioning, plumbing, and electrical systems as well as all appliances to be in operative condition on the day of closing or the day possession is given, whichever occurs first. IT SHALL BE THE PURCHASER'S RESPONSIBILITY TO HAVE THESE SYSTEMS AND APPLIANCES INSPECTED PRIOR TO SAID DATE and the Seller shall not be responsible for their condition after closing or possession is given.

c. If VA or FHA financing or if required by the Mortgage Company, the Seller shall furnish the Purchaser with a current certification from a bonded exterminator that the herein property is free and clear of termites, water and fungus damages, or other wood destroying insects and/or if any infestation was found it has been corrected and any structural damage has been repaired. Should Seller refuse to make said repairs, the Purchaser's obligation under this Contract is rescinded.

d. If VA or FHA financing is not involved and the Mortgage Company does not require a termite letter, Purchaser shall have the right, at his expense, to have the property inspected and to obtain a report of a licensed and bonded structural pest control operator that the herein described property is free and clear of termites, water and fungus damage, or other wood destroying insects. If any such infestation or structural damage is found, the Seller agrees to have it corrected and structural damage repaired prior to closing, at Seller's expense. Should Seller refuse to make said repairs, the Purchaser's obligation under this Contract are rescinded.

e. Seller represents that the herein property is connected to a N/A public sewer system or to N/A a cesspool or septic tank.

f. Until possession is delivered, the Seller agrees to maintain the heating, sewage, plumbing, air conditioning and electrical systems and any built-in appliances in normal working order, to keep roof water tight and to maintain the grounds, driveways and fencing in same condition as of date of Contract, normal wear and tear expected.

INSURANCE Fire insurance to be cancelled and new policy furnished by Purchaser at closing unless stipulated otherwise in this Contract.

BROKERAGE FEE Seller agrees to pay all real estate brokerage fees as specified in listing agreement at time of closing. The Brokerage Fee is earned upon the acceptance of this offer, but subject to any contingencies specified herein.

SPECIAL CONDITIONS THAT APPLY TO VA FHA ARE TO BE ADDED AS AN ADDENDUM IF APPLICABLE.

HOME WARRANTY COVERAGE Both parties understand that a Home Warranty N/A will N/A will not be issued at closing. If applicable, the warranty premium will be paid at closing by the N/A in the amount of $ N/A

DISCLAIMER IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT **GORDON REALTY COMPANY, INC.** MAKES NO WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS SAME APPLIES TO THE SUBJECT PROPERTY WITH IMPROVEMENTS THEREON AND ANY IMPLIED WARRANTY RELATING THERETO IS HEREBY EXPRESSLY DISCLAIMED BY **GORDON REALTY COMPANY, INC.** It is specifically understood and agreed that **GORDON REALTY COMPANY, INC.** makes no warranty as to the title of the subject property, the condition of the house including but not limited to termite damage, or improvements situate upon the subject property, including but not limited to furnace and air conditioning units, or matter which would be reflected by a current survey of the subject property and makes no warranty as to the accuracy of published square footage.

SIGNATURES BELOW SIGNIFY ACCEPTANCE OF ALL TERMS AND CONDITIONS STATED HEREIN - FACE AND REVERSE SIDES.

Signed, Sealed and Delivered in the Presence of:

As to Purchaser — Elizabeth S. Bell (L.S.) Purchaser

As to Purchaser — (L.S.) Purchaser

As to Seller — Seller

As to Seller — (L.S.) Seller

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PLAINTIFF'S EXHIBIT 2

30.80
15.40

BK1583PG045

TITLE TO REAL ESTATE — FORM 14-B
COLUMBIA OFFICE SUPPLY CO., COLUMBIA, S. C.

State of South Carolina,
COUNTY OF LEXINGTON

LEXINGTON COUNTY DOCUMENTARY TAX
PAID $15.40
MARJORIE H. SHARPE
Treasurer

FILED
1990 MAY -7 PM 2:38
JOANNE B. TRIBBLE
RMC
LEXINGTON COUNTY, S.C.

Know All Men By These Presents, That we, Charles S. Coleman and E. L. Stoudenmire,

044584

STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION
DOCUMENTARY STAMP TAX
MAY-7'90
P.B. 10893
30.80

FOR PLAT, SEE PLAT BK ____, PAGE ____

in the State aforesaid for and in consideration of the sum of Fourteen Thousand and no/100 ($14,000.00) Dollars to us paid by Elizabeth S. Bell in the State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, by these presents do grant, bargain, sell and release unto the said

Elizabeth S. Bell, her Heirs and Assigns:

All that certain piece, parcel or lot of land, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown and designated as Lot No. Six (6), Block C, on a plat prepared for Charles Coleman by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60, and having the following boundaries and measurements as shown on said plat: On the North by S.C. Road S-32-1853 whereon it measures 120.22 feet; on the East by Lot No. 5, Block C, whereon it measures 238.66 feet; on the South by 47.55-acre tract whereon it measures 90.00 feet; and on the West by property now or formerly of W.E. and J.E. Lindler whereon it measures 251.14 feet.

This being a portion of the property conveyed to Charles S. Coleman and E. L. Stoudenmire by deed of Eber L. Riley dated October 15, 1963, and recorded in the Office of the RMC for Lexington County in Deed Book 12-N at Page 530.

This conveyance is made subject to all existing easements, restrictions, rights of way and/or encroachments, including restrictions recorded in the Office of the RMC for Lexington County in Deed Book 611 at Page 232.

TMS No. 001635-01-001.

12040

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Also conveyed herwith is an easement for the use and enjoyment by the lot owner and the lot owners immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be appurtenant to the land herin conveyed.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To Have and to Hold all and singular the premises before mentioned unto the said Elizabeth S. Bell, her Heirs and Assigns forever

And we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Elizabeth S. Bell, her Heirs and Assigns, against us and our Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our Hands and Seals this 26th day of April in the year of our Lord one thousand nine hundred and ninety and in the two hundred and fourteenth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the presence of

CHARLES S. COLEMAN (S

(S

PLAINTIFF'S EXHIBIT 4

2793

STATE OF SOUTH CAROLINA)
) RESTRICTIONS
COUNTY OF LEXINGTON)

HILTON PLACE SUBDIVISION

It is hereby declared that the Covenants, Conditions and Restrictions hereinbelow set out are hereby imposed upon all lots hereinafter designated.

1. No lot referred to herein shall be sub-divided, and its size, shape or dimensions shall be changed in any way, except by and with the written consent and approval of the Grantors.

2. No lot or property conveyed hereunder shall be used for any other than private residential purposes of one family, except by and with written consent and approval of the Grantors.

3. No building, barn, outbuilding, fence, garage or structure of any kind or alterations or additions thereto shall be erected, placed or made on any lot hereby conveyed; no residence containing less than 1,200 square feet of living space shall be erected on any lot; and no basement or excavation of any kind shall be made thereon, unless and until the complete plans, specifications and the proposed design and location thereof on said lot have been submitted by the Grantee to the Grantors or to a committee designated and applied in writing by the Grantors and then only unless and until the Grantors, or their committee, have approved the same in writing by letter to the Grantee.

4. No noxious or offensive activity or other thing shall be had or done upon any lot hereby conveyed and nothing shall be had or done whereon which constitutes or becomes an annoyance or nuisance to the neighborhood. No hogs, goats, cows, horses or other such animals shall be allowed or kept on any lot hereby conveyed, except common domestic pets. Nothing shall be done or allowed and no condition or situation shall be permitted on any said lot which shall

FILED
Oct 12 2:11 PM '83
LEXINGTON COUNTY
JEANNETTE W. GRISSETTE

modification of Ratca, relative to within Deed Bk 1183 page 162 (5/13)
Modification of Ratca relative to the within, see Deed Bk 789 Page 217 (3/14)
modification of Ratca, relative to the within, see Deed Bk 880, Page 38. (1st 15-4)
confirmatory deed, see Bk 5089 pg 221

constitute, cause or become a nuisance or otherwise detract from the desirability of the neighborhood as a residential section.

5. No trailer, tent, shack or temporary structure shall be erected, kept, had or allowed at any time on any lot hereby conveyed. All rubbish, garbage and trash shall be kept in closed cans or other suitable containers, which shall be placed and kept behind the house, out of sight from the street as far as possible and the lot, property and premises shall be kept clean at all times. Each owner shall make arrangements for regular garbage pick-up service.

6. All sewage disposal shall be maintained by the Grantee in a manner satisfactory to and meeting the approval of the State Board of Health.

7. There shall be no lakefront fencing constructed on any lot.

8. An easement is reserved by the Grantors over the front and rear ten (10') feet of each lot and over the ten (10') feet of each side line of each lot for the purpose of utility installation right of way and the operation and maintenance thereof.

9. If the Grantee violates or attempts or indicates an intention to violate any of the obligations, agreements, terms, conditions, provisions, covenants or restrictions hereinabove mentioned or referred to, the Grantors or other owners of property described herein shall have the right to enjoin, restrain and prevent any and all such violation by any proper legal proceedings in law or equity or to recover damage or the dues from the Grantee for each such violation or do both.

10. Unless changed by the consent of the Grantors, their heirs and assigns, these covenants, conditions and restrictions shall be appurtenant to and run with the said premises and shall be binding on all parties and all persons claiming under them until the 31st day of October, 2008, at which time

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said covenants shall be automatically extended for successive periods of ten (10) years unless changed by the Grantors, their heirs and assigns.

11. These covenants, conditions and restrictions are for the benefit of the Grantors who may change or modify the terms contained herein at any time.

12. The covenants, conditions and restrictions are hereby imposed upon all those lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60.

WITNESS this 11th day of October, 1983.

Witnesses:

Theresa H. Fadness

Charles S. Coleman
CHARLES S. COLEMAN

E. L. Stoudenmire
E. L. STOUDENMIRE

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Personally appeared before me Theresa H. Fadness, who, being duly sworn, deposes and says that (s)he saw the within-named Charles S. Coleman and E. L. Stoudenmire sign, seal and as their act and deed deliver the within-written instrument for the uses and purposes therein mentioned, and that (s)he with Charles D. Davis witnessed the execution thereof.

Theresa H. Fadness

SWORN to before me this
11th day of October, 1983.

Notary Public for South Carolina

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PLAINTIFF'S EXHIBIT 5

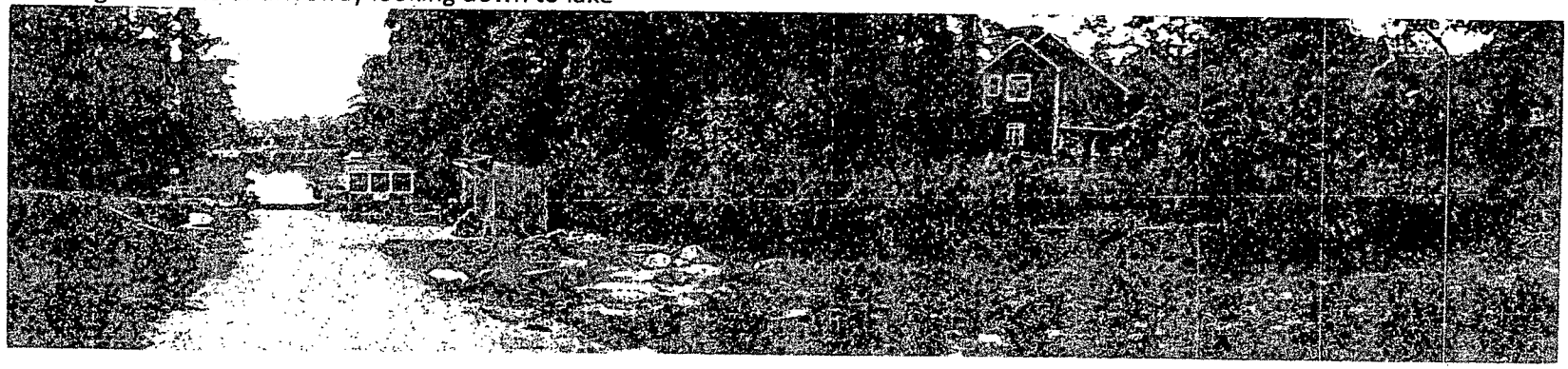
tabbies

The bathroom...



PLAINTIFF'S EXHIBIT 6

Standing in middle of driveway looking down to lake



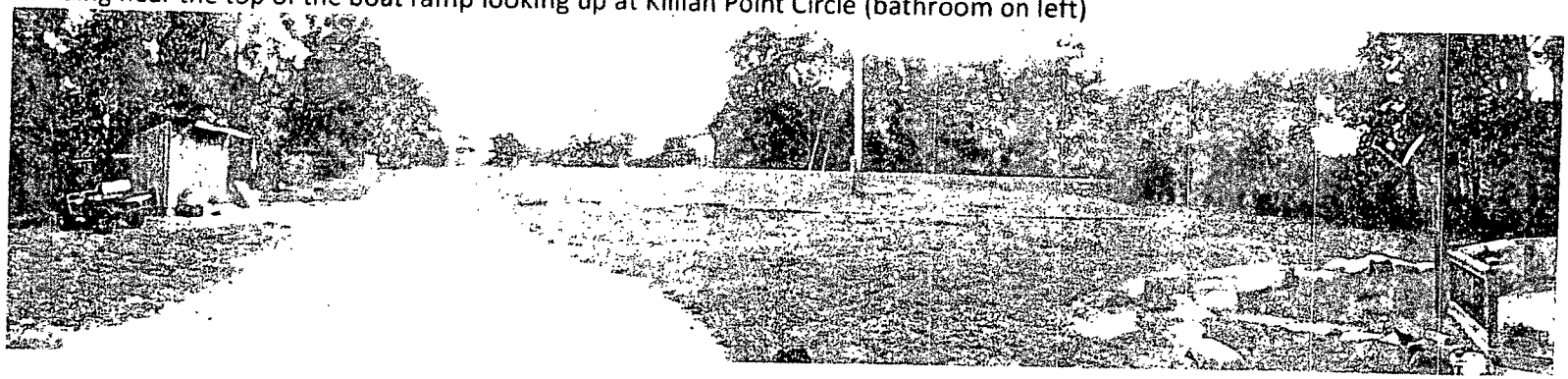
Standing in middle of driveway looking up to Killian Point Circle (stone columns are 40 feet apart at driveway entrance)



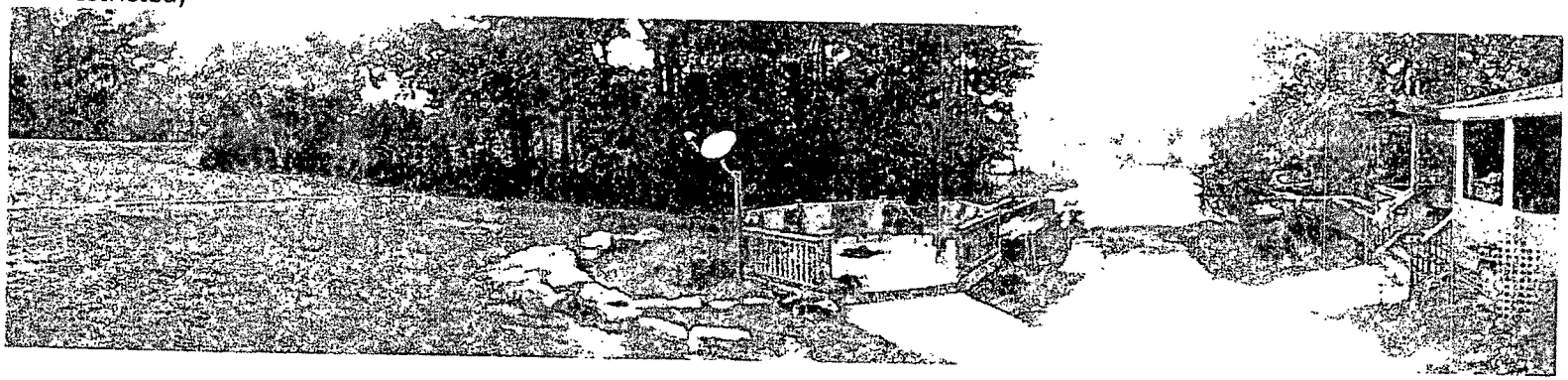
PLAINTIFF'S EXHIBIT 7

This is the Lake Access lot

Standing near the top of the boat ramp looking up at Killian Point Circle (bathroom on left)



Standing in driveway near the bathroom looking down at lake (fire pit and dock on left...boat is docked on left...concrete boat ramp is unrestricted)



PLAINTIFF'S EXHIBIT 9



Book/Page: R 5608/13 (This is not an Offical Copy)

2008001612 FILED, RECORDED, INDEXED
01/12/2008 11:08:01:538
Rec Fee:$10.00 St Fee:$8.00

2008001642 FILED, RECORDED, INDEXED
01/12/2008 11:30:52:810
Rec Fee:$10.00 St Fee:$8.00
Co Fee:$8.00 Pages:2
Lexington County, SC Debra H. Gunter
DEED Bk:Pg 5608:13

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

DEED TO REAL ESTATE

KNOW ALL MEN BY THESE PRFSENTS, **JACKIE Q. BOWER** (hereinafter referred to as "Grantor"), for and in consideration of the sum of Five and No/100 Dollars ($5.00) to the Grantor in hand paid at and before the sealing of these presents, by **JACKIE BOWER LINDER** (hereinafter referred to as "Grantee") in the State and County aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the Grantee, his Heirs, Successors and Assigns:

All that certain piece, parcel or lot of land, together with the improvements thereon, situate, lying and being near the town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown and designated as Lot No. Ten (10), Block A, and Lot No. Ten-A (10A) on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc., dated September 19, 1983, later revised and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at page 60, Lot 10, Block A is more fully shown on a survey prepared for Michael R. Satterfield and Kathryn A. Satterfield by Cox and Dinkins, Inc., dated September 29, 1989, recorded in Plat Book 234 at page 616 having such boundaries and measurements as shown on said latter plat reference to which is hereby craved for a more complete and accurate description.

Derivation: This being the same property conveyed to Jackie Q. Bower by deed of Michael R. Satterfield and Kathryn A. Satterfield as recorded in the Office of the RMC for Richland County in Deed Book 5166 at page 140.

TMS # 1635-3-11

Grantee's Address: 105 Big Thursday Court
Chapin, SC 29036

This conveyance is made subject to easements and restrictions of record and otherwise affecting the property.

Book/Page: R 5608/14 (This is not an Offical Copy)

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in any way incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, his heir, Successors and Assigns forever.

And the Grantor does hereby bind themselves and their heirs, successors and assigns, to warrant and forever defend all and singular the premises unto the Grantee, his heirs, successors and assigns against themselves and their heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

Any references in 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 Grantees.

WITNESS their Hand and Seal this 30th day of December, in the year of our Lord one thousand nine hundred and ninety-nine and in the two-hundredth and twenty third year of the Sovereignty and independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Witness #1

Jackie Q. Bower

Witness #2

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named Grantor sign, seal and as his/her/its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he, with the other witnesses subscribed above, witnessed the execution thereof.

Witness #1

SWORN to before me this
30th day of December, 1999.

(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 8-23-2005



20100024824 FILED, RECORDED, INDEXED
2010-06-17 11:55:06:380
REC FEE: $10.00 ST FEE: $1.30 Exempt
CO FEE: $0.55 Exempt Pages: 3
Lexington County R.O.D. Debra M. Gunter
DEED Bk:Pg 14296:261

(Space above this line for Recorder's Use)

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

TITLE TO REAL ESTATE
NO TITLE SEARCH PERFORMED BY KNEECE, KNEECE & BROWN - DEED PREPARATION ONLY

KNOW ALL MEN BY THESE PRESENTS, That, I, Z. H. McDaniel, III, in the State aforesaid, for and in consideration of the sum of Five and no/100 ($5.00) Dollars, and love and affection, to me paid by Kathryn Ann McDaniel, in the State aforesaid, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, by these presents do grant, bargain, sell and release unto the said:

KATHRYN ANN McDANIEL, HER HEIRS AND ASSIGNS:

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown and designated as Lots 7 and 8, Block "A" on a plat for Charles Coleman (also known as Hilton Place) by Johnny T. Johnson & Associates, Inc., dated September 19, 1983 (revised December, 1983) and recorded in the Office of the RMC for Lexington County in Plat Book 194-G, Page 60. Reference is also made to the above mentioned plat revised February 21, 1991, and recorded in Plat Book No. 242 at Page 150. Being further shown on a plat prepared for Z. H. McDaniel, III by Cox and Dinkins, Inc., dated August 22, 1996, to be recorded; reference being made to said plat which is incorporated herein by reference for a more complete and accurate description; be all measures a little more or less.

This being the same property conveyed to Z. H. McDaniel, III by deed of John L. Yost, Jr., and Kathryn C. Yost dated August 30, 1996, and recorded in the Office of the ROD for Lexington County on September 4, 1996 in Book 3864, page 223.

TMS # 001635-03-008; 001635-01-031; 001635-01-032

Grantees's address: 112 Killian Point Circle, Chapin, SC 29036

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

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THIS CONVEYANCE is made subject to easements, conditions and restrictions of record, including matters appearing on plats of record.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs and assigns forever.

AND GRANTOR does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs and assigns, against itself and its successors and assigns lawfully claiming or to claim, the same or any part thereof.

Any reference in 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 Grantees.

WITNESS my Hand and Seal this 16th day of June, in the year of our Lord two thousand and ten (2010) and in the two hundred and thirty-third (233rd) year of the Sovereignty and Independence of the United States of America.

Signed, Sealed, and Delivered
in the Presence of:

First witness

Z. H. McDaniel, III

Second witness/notary

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named, Z. H. McDaniel, III, sign, seal and as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he with the other witness witnessed the execution thereof.

First witness signs here

SWORN to before me this
16th day of June, 2010.

Notary Public for South Carolina
My Commission Expires: 3-3-19

Book/Page: R 10537/37 (This is not an Official Copy)

2005056246 FILED, RECORDED, INDEXED
10/12/2005 10:57:06:483
Rec Fee:$10.00 St Fee:$650.00
Co Fee:$275.00 Pages:2
Lexington County ROD Debra M. Gunter
DEED Bk:Pg 10537:37

Deed Prepared by: **Law Office of Smokey Brown, PC**
P.O. Box 1545
Irmo, SC 29063

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON) GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that Linda L. Leventhal n/k/a Linda L. Johnson (GRANTORS), for and in consideration of the sum of Two Hundred Fifty Thousand Dollars and 00/100 ($250,000.00), the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Henry D. Gehlken, Sr. & Vivian S. Gehlken (GRANTEES), as joint tenants with rights of survivorship, and not as tenants in common, their heirs and assigns forever, all her fee simple interest in the following real property located in Lexington County, State of South Carolina:

All that certain piece, parcel, or lot of land, with the improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown as Lot 5, Block C on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc. dated September 19, 1983 later revised, and recorded in the Office of the ROD for Lexington County in Book 242 at page 150. Also, a non-exclusive access to the water of Lake Murray through the lake access as shown on said plat which shall run with the land. Said lot 5, Block C being further shown on plat prepared for Linda L. Leventhal by United Design Services, Inc. on June 21, 2000, and recorded in Plat Book 5864 at page 55, in the Office of the Register of Deeds for Lexington County; and having such shapes, courses, distances, metes and bounds as shown upon said latter plat, all measurements being a little more or less, to which reference is hereby craved as often as necessary for a more complete and accurate description.

This being the same property conveyed to Linda L. Leventhal (n/k/a Linda L. Johnson) by deed of Michael O. Taylor and Kimberly A. Taylor dated June 30, 2000 and recorded July 6, 2000 in the Office of the Register of Deeds for Lexington County in Record Book 5864 at page 53.

TMS#: 001635-01-002

This conveyance is made subject to conditions, easements, covenants, restrictions, plats and zoning regulations of record, and those that an inspection of the property would disclose.

Grantees' Address: 217 Killian Point Road, Chapin, SC 29036

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

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PLAINTIFF'S EXHIBIT 12

Book/Page R 11537/28 This is not an Official Copy!

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, their heirs and assigns forever.

AND THE GRANTOR does hereby bind Grantor's heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantees, their heirs and assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this October 11, 2005.

Signed, Sealed and Delivered
in the Presence of:

Linda L. Leventhal n/k/a Linda L. Johnson

STATE OF SOUTH CAROLINA
COUNTY OF Lexington

Personally appeared before me the undersigned and made oath that s/he saw the within-named Grantor sign, seal and as her act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that s/he with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this
11th day of October, 2005,

Notary Public for the State of South Carolina
My Commission Expires: 6/25/2013

PLAINTIFF'S EXHIBIT 13

41.50
90

BK2143PG276

TITLE TO REAL ESTATE — Form 1-G
COLUMBIA OFFICE SUPPLY CO., COLUMBIA, S. C.

State of South Carolina,

COUNTY OF LEXINGTON

KNOW ALL MEN BY THESE PRESENTS, That we, Stephen A. Wylie & Julie F. Wylie

in the State aforesaid, for and in consideration of the sum of Nineteen Thousand and 00/100 ($19,000.00) Dollars to us paid by Kenneth W. Kelly and Anita B. Kelly in the State aforesaid

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said KENNETH W. KELLY AND ANITA B. KELLY, THEIR HEIRS AND ASSIGNS:

That parcel or lot of land situate, lying and being near the Town of Hilton, in subdivision known as Hilton Place, Lexington County, South Carolina and shown and designated as Lot #4, Block "B" and Lot(4-B) on plat of Hilton Place by Johnny T. Johnson and Associates, Inc., September 19, 1983, revised December 1982, recorded in office of RMC, Plat Book 190-G Page 60 and shown on plat prepared for grantors, recorded Plat Book 238 Page 506.
DERIVATION: Deed from Paula P. Harris & Frank J. Harris to Stephen A. Wylie and Julie F. Wylie, recorded book 1574 Page 324, May 1, 1990.
TMS: 1635 2 8
GRANTEE ADDRESS: 235 Cano Lane, Chapin, SC 29036

This deed is subject to restrictions recorded Book 611 Page 232.

LEXINGTON COUNTY DOCUMENTARY TAX PAID $ 10.90 MARJORIE H. SHARPE Register

STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION
DOCUMENTARY STAMP TAX
REV-572 FEB 10691
$ 41.80

FILED
MAY 6 11 35 AM '92
JOANNE D. TRIGGLE RMC LEXINGTON COUNTY

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Kenneth W. Kelly and Anita B. Kelly, their Heirs and Assigns forever.

And we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Kenneth W. Kelly and Anita B. Kelly, their Heirs and Assigns, against ourselves and our Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our *Hands and Seals this* 29th *day of* April *in the year of our Lord one thousand nine hundred and* ninety-two *and in the two hundred and* sixteenth *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Julie F. Wylie (SEAL)

Stephen A. Wylie by Julie F. Wylie (SEAL)
Attorney in fact

18345

375

BK2143PG277

STATE OF SOUTH CAROLINA,
LEXINGTON COUNTY.

PERSONALLY appeared before me Doris J. Ashley and made oath that S he saw the within-named Stephen A. Wylie & Julie F. Wylie sign, seal and, as their act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that he, with Michael O. W. Edens, P.C. witnessed the execution thereof.

SWORN to before me this 29th day of April, 19 92.

Notary Public of S. C. (L.S.) Doris J. Ashley

MCE: 10-20-93

STATE OF SOUTH CAROLINA,
COUNTY.

RENUNCIATION OF DOWER

I, , do hereby certify unto all whom it may concern, that Mrs. the wife of the within-named

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this day of , 19 .

Notary Public of S. C. (L. S.)

State of South Carolina
County of LEXINGTON

STEPHEN A. WYLIE & JULIE F. WYLIE

TO

KENNETH W. KELLY &
NITA B. KELLY

TITLE OF REAL ESTATE

I hereby certify that the within Deed was filed for record in my office at 11:30 A.M. o'clock on the 6 day of May, 19 92, and was immediately entered upon the proper index and duly recorded in Book 2148 page 276

Clerk of Common Pleas and General Sessions
Lexington County, S. C.

I hereby certify that the within Deed has been duly recorded this 6 day of May, A. D. 1992, Recorded in Deed Book , page

Auditor
Lexington County

10.00

376

Book/Page: R 14980/293 (This is not an Official Copy)

2011029650 FILED, RECORDED, INDEXED
2011-08-01 08:29:53:493
REC FEE: $10.00 ST FEE: $1.30 Exempt
CO FEE: $0.55 Exempt Pages: 2
Lexington County R.O.D. Debra H. Gunter
DEED Bk:Pg 14980:293

Affidavit

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF LEXINGTON)

Know All Men by These Presents that

Judson P. Smith

(hereinafter "Grantor") in the State aforesaid, for and in consideration of the sum of Ten Dollars ($10.00), love and affection, in hand paid at and before the sealing of these presents by

Jennifer Christy Brabham

(hereinafter whether singular or plural the "Grantee") in the state aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell, and release unto the said Grantee an undivided one-half interest in and to:

All that certain, piece, parcel or lot of land, with the improvements thereon, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown as Lot No. One (1), Block C, on a plat prepared for Charles Coleman by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the ROD for Lexington County in Plat/Record/Slide book 242 at page 150; said property having such sizes, shapes, dimensions, buttings and boundaries as will be shown by reference to the aforesaid plat.

This conveyance is made subject to easements, conditions and restrictions of record affecting subject property.

This being the same property conveyed to Judson P. Smith by deed dated August 14, 2008 and recorded in Book 13098 at Page 114 in the Office of the ROD for Lexington County.

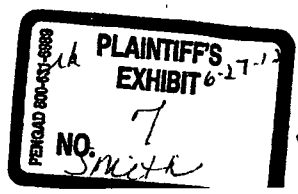
TMS NO. 001635-01-006

Grantee's mailing address: 920 St. Andrews Road, Columbia, SC 29210

TOGETHER with all and singular, the rights, members, hereditaments, and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to easements and restrictions of record, all and singular the premises before mentioned unto the Grantee, the grantee's heirs, successors and assigns forever, and the Grantor does herby bind Grantor and Grantor's heirs, executors,





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Book/Page: R 14880/294 (This is not an Offical Copy)

administrators, successors and assigns to warrant and forever defend, subject to easements and restrictions of record, all and singular the said premises against Grantor and Grantor's heirs, executors, administrators, successors and assigns and against any person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITHIN THIS INSTRUMENT all references to the Grantor and the Grantee shall include the singular and plural, and any gender shall include all genders, including the neuter. Such words of inheritance shall be applicable as are required by the applicable gender of the Grantee and/or Grantor.

WITNESS the Hand and Seal of the Grantor this 26 day of April, 2011

Signed, Sealed, and Delivered
In the Presence of

Witness

Judson P. Smith (Seal)

Witness

STATE OF SOUTH CAROLINA)
)
LEXINGTON COUNTY)

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Grantor sign, seal, and as the Grantor's act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN TO before me this 26
day of April, 2011.

Notary Public for South Carolina
My Commission Expires: 2/19/2018

Witness

378

Book/Page: R 14: 80/295 (This is not an Official Copy)

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington) Affidavit

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 being transferred is located at _____ bearing Lexington County Tax Map Number 001635-01-006, was transferred by Hudson P. Shuler to Jennifer Christy Brubaker on April 26, 2011.

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 a distribution to a trust beneficiary.
   (c) X exempt from the deed recording fee because (see information section of affidavit): no consideration - Family (If exempt, please skip items 4 – 7 and go to item 8 of this affidavit.)

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 _____ 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. 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: _____
   (b) Place the amount listed in item 5 above here: (If no amount is listed, place zero here) _____
   (c) Subtract line 6(b) from line 6(a) and place result here: _____

7. The deed recording fee due is based on the amount listed on line 6(c) above and the deed recording fee due is : _____.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney.

9. I understand that a person required to furnish this affidavit who willfully 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.

H. Clayton Walker, Jr.
Responsible Person Connected with the Transaction

H. Clayton Walker, Jr.
Print or Type Name Here

SWORN to before me this 25 day of July 2011

Notary Public for South Carolina
My Commission Expires: 02/19/17

379

Book/Page: R 14372/306 (This is not an Official Copy)

PLAINTIFF'S EXHIBIT 16

2010003436 FILED, RECORDED, INDEXED
2010-08-02 11:34:05:570
REC FEE: $10.00 ST FEE: $65.00
CO FEE: $27.50 Pages: 3
Lexington County R.O.D. Debra M. Gunter
DEED Bk:Pg 14372:306

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT

Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman George Arthur Stoudenmire, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Soutdenmire

(hereinafter "Grantor") in the state aforesaid for and in consideration of the sum of Twenty-five Thousand and 00/100 Dollars ($25,000.00) in hand paid at and before the sealing of these presents by

Judson P. Smith and Christy Brabham Bell

(hereinafter referred to as "Grantee" which term shall include the singular and plural, masculine, feminine, and neuter) in the state aforesaid, the receipt of which is hereby acknowledged, has granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said Grantee:

All that certain pieces, parcels or tracts of land, designated as "Lake Access" and Area of Lake = 3.00 acres – 130,553 sq.ft. on a plat prepared for Charles Coleman by Johnny T. Johnson & Associates, Inc. dated September 19, 1983, later revised and recorded in the Register of Deeds Office for Lexington County in Plat Book 242 at page 150; said property having such sizes, shapes, dimensions, buttings and boundaries as will be shown by reference to the aforesaid plat.

This conveyance is made subject to easements, conditions and restrictions of record affecting subject property.

This being the same property conveyed to Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman and Valeska C. Freeman by deed of distribution in the matter of Valiska F. Coleman, dated March 8, 2007 and recorded in the Office of the Register of Deeds for Lexington County in Deed Book 11819 at page 323; and to Everette L. Stoudenmire, George Arthur Stoudenmire and George Arthur Stoudenmire as trustee for William E. Stoudenmire by deed from George Arthur Stoudenmire, as successor trustee for Trust B created U/W Everette L. Stoudenmire dated 3/7/88, dated June 23, 2005 and recorded in Book 12629 at page 121; and to Linda B. Stoudenmire, Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire by deed of distribution in the matter of Everette L. Stoudenmire, Jr., dated February 7, 2008 and recorded in Book 12661 at page 244.

TMS #001635-03-009 & #001635-03-018

Grantee's mailing address: 920 St. Andrews Rd., Columbia, SC 29210

Together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in anywise incident or appertaining.

PLAINTIFF'S EXHIBIT 627-12 NO. 8

TO HAVE AND TO HOLD, subject to easements and restrictions of record, all and

10 RE 0345

380

As more Recent Survey Recorded in Book 14372 at Page 3.05

singular the said premises before mentioned unto the said Grantee, the grantee's heirs, successors, and assigns forever, and the Grantor does hereby bind Grantor and Grantor's heirs, executors, administrators, successors and assigns to warrant and forever defend, subject to easements and restrictions of record, all and singular the said premises against Grantor and Grantor's heirs, executors, administrators, successors and assigns and against any person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITHIN THIS INSTRUMENT all references to the Grantor and the Grantee shall include the singular and plural, and any gender shall include all genders, including the neuter. Such words of inheritance shall be applicable as are required by the applicable gender of the Grantee and/or Grantor.

IN WITNESS WHEREOF Grantor has caused these presents to be executed on the 29th day of July, 2010.

WITNESSES:

GRANTOR:

(SEAL)
Charles S. Coleman, Jr.

(SEAL)
J. Thomas Coleman

(SEAL)
Jacob C. Coleman

(SEAL)
Valiska C. Freeman

(SEAL)
George Arthur Stoudenmire

(SEAL)
George Arthur Stoudenmire as Trustee for
William E. Stoudenmire

(SEAL)
Linda B. Stoudenmire

Stacey S. Dershaw F/K/A Stacey Michelle Stoudenmire by Linda (SEAL)
Stacey S. Dershaw f/k/a Stacey Michelle
Stoudenmire By Linda B. Stoudenmire Her
Attorney-In-Fact by Linda B. Stoudenmire her attorney-in-fact

Laura Brittany Stoudenmire by (SEAL)
Laura Brittany Stoudenmire
By Linda B. Stoudenmire Her Attorney-In-Fact
Linda B. Stoudenmire her attorney-in-fact

Book/Page R 14372/308 (This is not an Official Copy)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

PROBATE

PERSONALLY APPEARED before me, the undersigned witness made oath that (s)he saw the within named Grantors sign, seal and as their act and deed, deliver the within written deed for the uses and purposes therein mentioned, and that (s)he with the other witness whose name appears above witnessed the execution thereof.

SWORN to before me this 29th day of July, 2010.

Notary Public for South Carolina
My commission expires: 5.18.19

Witness

PLAINTIFF'S EXHIBIT 17

AGREEMENT TO BUY AND SELL REAL ESTATE
(FOR GENERAL USE AND LOTS/ACREAGE)

1. **PARTIES:** This legally binding Agreement into on June 18 ,20 10
between, Buyer(s), Judson P. Smith ,(hereinafter called **"BUYER"**), and
Seller(s), Coleman, Stoudenmire, et. al. ,(hereinafter called **"SELLER"**). The
property shall be deeded in the name(s) of Judson P. Smith

2. **PROPERTY TO BE SOLD:** Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the following described property with improvements and fixtures thereon:
Lot "LA" Block Section Subdivision Hilton Place
Address Killian Point Circle
Tax Map # 001635-03-009 & 001635-03-018 City Chapin Zip 29036
County of Lexington , State of South Carolina.

3. **PURCHASE PRICE** shall be $ 25,000
Twenty-five thousand & NO/100 dollars.

4. **METHOD OF PAYMENT:** Purchase price shall be paid as follows: [ ] Cash; or [ ] Subject to Financing. Financing to be obtained by [ ] Conventional [ ] Seller [ ] VA [ ] FHA [ ] Other terms: To be determined.

5. **EARNEST MONEY:** This offer is accompanied by an earnest money deposit of $ 500.00
Buyer and Seller authorize Asset Realty, Inc. , as Escrow Agent, to hold and disburse earnest money according to the terms of this agreement. Earnest money paid by Cash, Check, or Other. Broker does not guarantee payment of a check or checks accepted as earnest money. All escrow money received shall be deposited as required by South Carolina law and South Carolina Real Estate Commission Rules and Regulations. At the consummation of this sale, the earnest money deposit shall be credited to the Buyer.

THE PARTIES UNDERSTAND THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, THE BROKER HOLDING THE EARNEST MONEY DEPOSIT WILL NOT DISBURSE IT TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT.

6. **LOAN PROCESSING AND APPLICATION:** Buyer's obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a maximum N/A % loan (loan-to-value ratio) within days from the execution of this Agreement and shall provide Seller with written satisfactory loan approval within N/A days. Time is of the essence. The written loan approval shall contain no stipulations, and shall be subject only to the provisions of Paragraph 20 of this agreement. Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer also agrees to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any action that is needed or requested by Lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer's credit-worthiness or any other information needed for the loan processing to the listing or cooperating broker(s) or agent(s). If Buyer fails to comply with these above conditions, Buyer shall be in default of this agreement subject to the terms of paragraph 16.
FHA Mortgage Insurance [ ] will [X] will not be added to the mortgage. VA funding fee [ ] will [X] will not be added to the mortgage.

7. **WELL, SEPTIC TANK, SEWER AVAILABILITY:** It shall be the responsibility of the Buyer to obtain approval from the South Carolina Department of Health and Environmental Control or other proper South Carolina authority prior to closing in the event a well and/or septic tank is needed to be placed on the property.

[ ] BUYER [ ] BUYER [ ] SELLER [X] SELLER HAVE READ THIS PAGE

PLAINTIFF'S EXHIBIT 3 6-27-12

In the event that the Buyer applies for well or septic tank approval and DHEC or other proper authority denies approval or issues a preliminary opinion showing that the property is not suitable for the installation of a well and/or a conventional septic system suitable for the Buyer's intended home or other structure, then in such event, the Buyer may elect to rescind this Agreement and receive a refund of the earnest money deposit. If the property is capable of being connected to a water and/or sewerage line maintained by a private or public utility for a normal tap fee and at a cost to complete tap not to exceed $ N/A, then in such event, the Buyer shall contract such authority to obtain confirmation that the subject property is properly tapped for water and sewer system or may be tapped into the water and sewerage system.

Seller represents that the property is connected to [ ] public sewer system or to [ ] septic tank or to [ ] public water or to [ ] well system or to [ ] other NONE

8. **SURVEY:** Upon the acceptance of this offer, the property shall be surveyed by a licensed surveyor at the expense of the [ ] BUYER [ ] SELLER. The surveyor shall set and flag all property pins. showing encroachments and easements. Property must be N/A x N/A or having at least N/A acres. The survey to be approved in writing by Buyer prior to closing. The purchase price is based upon $ per N/A (acre, sq. ft., or front ft.) and shall be adjusted in accordance with the area set forth in such a survey, if applicable.

9. **CONVEYANCE SHALL BE MADE:** Conveyance shall be made subject to all easements as well as covenants of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller agrees to convey by marketable title and deliver a proper general warranty deed, if applicable, free of encumbrances, except as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be delivered at the stipulated place of closing, and transaction closed on or before July 30, 2010, no later than 9:00 p.m. **Time is of the essence.** Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

10. **POSSESSION:** Possession of said property will be given to Buyer on the day of closing. Seller agrees to deliver property free of debris and in a clean condition. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a separate agreement to be executed prior to closing or occupancy.

11. **CONDITION OF PROPERTY:** The Seller shall not remove any timber, dirt, minerals or otherwise affect the condition of the property after the signing of this Agreement. All timber, dirt, minerals, etc., shall remain with the property and be a part of the property and be transferred to the Buyer. The Seller shall not bring any trash, refuse, debris, medical or hazardous waste, or other improper materials upon the property. In the event any condemnation proceeding is brought by any governmental authority, agency, utility, etc., prior to the closing, then the Buyer may elect to rescind the agreement.

12. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at N/A o'clock M on N/A, 20 unless countered or accepted by Seller in written form prior to such time. **Time is of the essence.**

13. **SPECIAL STIPULATIONS/CONTIGENCIES:** The following stipulations concerning zoning, restrictions, and easements affecting desired use, drainage, hazardous waste, availability of water and sewer, soil test, wetlands study, subordination, lot releases, etc., should be included here. If conflicting with printed matter, the following stipulations shall control: (See addendum if applicable) No sewer or septic currently available. Contingencies:

14. **ADJUSTMENTS:** Taxes, water, all sewer assessments, sewer charges, fuel oil, rents as when collected, insurance premiums, if applicable, and other assessments, including homeowner's association fees, shall be adjusted as of the date of closing. Tax prorations pursuant to this Agreement are to be based on the tax information available on the date of closing, and are to be prorated on that basis. **BUYER IS TO BE RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS.** Property taxes and rent, as well as other expenses and income of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in month of closing. Prorations at closing shall be final.

15. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in the said statute.

ROLLBACK TAXES (IF ANY): When rollback taxes are subsequently determined and billed to the Buyer, the Seller and Buyer agree that the rollback taxes shall be paid by [ ] Buyer or [ ] Seller.

[ ] BUYER [ ] BUYER [ ] SELLER [ ] SELLER HAVE READ THIS PAGE

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17. **RISK OF LOSS OR DAMAGE:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Buyer or Seller shall have the option for ten (10) days thereafter of proceeding hereunder, or of terminating this Agreement.

18. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 19), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

19. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer, Seller or Broker in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Broker's fee or commission for this sale.

20. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** The Listing and Cooperating Broker(s) and their Agent(s) recommend that Buyer have a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and that Buyer obtain appropriate hazard insurance coverage effective with the time of closing. All hazard insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender at Buyer's option, shall be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

21. **APPRAISED VALUE:** The lot or parcel with building and improvements thereon, if any, must appraise, according to the lender's appraisal or other appraisal as agreed, for the selling price or more or the Seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. However, if Seller does not agree to sell at appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation.

22. **SPECIAL STUDIES AREA, WETLANDS, AND ENVIRONMENTAL PROTECTION MATTERS:** All reports and certifications called for by the lending agencies and any governmental body, by the Buyer concerning any special study area, wetlands or for any environmental protection matter shall be at the expense of the buyer. In the event such studies are wanted or required, the studies must be furnished by the proper parties **within** N/A **days** of complete execution of the agreement. The Buyer and Seller must have access to all studies **within five (5) days of receipt** of the studies. If Buyer fails to meet these deadlines, Buyer is deemed to have waived any and all rights under this paragraph. If the Buyer is not satisfied with the results, the Seller shall have the option of correcting the problem. If the Seller elects not to correct the problem, the Buyer's obligations under this Agreement terminate.

23. **COASTAL TIDELANDS & WETLANDS ACT:** In the event the property is affected by the provisions of the South Carolina Coastal Tidelands & Wetlands Act (Section 48-39-10, et seq., South Carolina Code of Laws), an Addendum will be attached to this Agreement incorporating the required disclosures at [ ] Buyer's [ ] Seller's expense.

24. **DISCLAIMER BY BROKERS AND AGENTS:** The parties acknowledge that the Listing and Cooperating Broker(s) and their Agent(s): (1) Give no guaranty or warranty of any kind, express or implied, as to the physical condition of the property or as to condition of or existence of improvement services or systems, thereto, included but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage, electric systems, and to the structure; (2) Give no warranty, express or implied, as to the merchantability or fitness for a particular purpose as to the property or such improvements thereto and any implied warranty hereby disclaimed; (3) Give no warranty as to title; (4) Give no guaranty on warranty concerning (a) any certification or inspection concerning the condition of the property, (b) any matters which would be reflected by current survey of the property, and (c) the accuracy of the published square footage of the property; (5) Buyer acknowledges that Seller and Seller's Agents have not made any oral or written commitments to Buyer regarding (a) projected income or economic benefit for Buyer from rentals; (b) rental arrangements except that Buyer may rent the unit if Buyer so desires or (c) other economic benefits to the Buyer.

25. **MEDIATION CLAUSE.** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Buyer(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud.

[ ] BUYER [ ] BUYER [ ] SELLER [ ] SELLER **HAVE READ THIS PAGE**

Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 days after the date of the closing.
The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of a interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

26. **ENTIRE BINDING AGREEMENT:** This written instrument, including the additional terms and conditions set forth on any documents intended by the parties to be included, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all.

27. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

28. **FACSIMILE AND OTHER ELECTRONIC MEANS:** The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

29. **EXTENSION AGREEMENT:** If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed 30 consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date. Time is of the essence.

30. **CONTINGENCIES:** These stipulations shall preempt printed matter herein: (attach and reference addendum if necessary) Buyer shall have the right to cancel this agreement without penalty (to include return of earnest money) by June 30, 2010, after Consultation with Buyer's attorney and/or insurance carrier regarding potential liability. Purchase includes lake access lot and lot below 360. initial:

BUYER [ ] BUYER [ ] SELLER [ ] SELLER HAVE READ THIS PAGE

THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIVING, READING, AND UNDERSTANDING THE SOUTH CAROLINA REAL ESTATE COMMISSION'S AGENCY DISCLOSURE FORM.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties.

BUYER: _____ Date 6-18-10 Time _____

WITNESS: _____ Date _____ Time _____

BUYER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

SELLER: _____ Date 6-21-10 Time _____

WITNESS: _____ Date _____ Time _____

SELLER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

LISTING AGENT AND COMPANY Stan Comire, Asset Realty, Inc.

SELLING AGENT AND COMPANY Stan Comire, Asset Realty, Inc.

SELLING AGENT IS PRESENTING THIS OFFER AS A [X] BUYER'S AGENT OR [ ] SUBAGENT OF THE SELLER.

ESCROW AGENT ACKNOWLEDGMENT _____

Final terms accepted by both parties 6-21-10.

The foregoing form is available for use by the entire real estate industry. The use of the form is not intended to identify the user as a REALTOR®. REALTOR® is the registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. Expressly prohibited is the duplication or reproduction of such form or the use of the name "South Carolina Association of REALTORS®" in connection with any written form without the prior written consent of the South Carolina Association of REALTORS®. The foregoing form may not be edited, revised, or changed without the prior written consent of the South Carolina Association of REALTORS®.

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January 25, 2011

To the Grantors, their heirs and assigns of the Hilton Place Subdivision:

The undersigned owners of lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc. dated September 19, 1983 and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60, would like the Grantors to enjoin, restrain and prevent exclusive use of the Hilton Place lake access area by Judson P. Smith.

Mr. Smith has erected an outbuilding structure, attached deck, and a dock in the lake access area. Mr. Smith intends that these structures and the space that they occupy are for his personal and exclusive use.

The undersigned lot owners of Hilton Place where told by the developers of Hilton Place that this lake access area would always be available to Hilton Place lot owners for non-exclusive use as a common area. Mr. Smith's desire to have exclusive use of the area or exclusive use of a portion of the area is a change that negatively impacts the other owners of Hilton Place property.

F. Kenneth Mathis A-9

Lot 3 & 33





HILTON PLACE COMMUNITY ASSOCIATION

The Hilton Place Homeowner's Association has been formed. So far the Association includes the following members:

Sissy and Tommy Freeman
Jake and Susie Coleman
Danny and Teresa Wilds
Mark and Cindy Kroske
Danny and Virginia Lee – No
Val and Sandra Ray
Tom and Lettie Gilligan
Steve and Linda Holleman

Although everyone has not formally joined the Association, we have received positive interest from 13 out of 24 families in the Hilton Place community. If you would like to join our association or are interesting in obtaining more information about our association, please attend our next organizational meeting.

The Association has elected the following members as Officers:

Mark Kroske-President
Virginia Lee-Vice President
Sandra Ray-Secretary Treasurer

The Association voted to incorporate to limit any liability to the Corporation as opposed to individual members. We are in the process of forming a nonprofit corporation. The Articles of Incorporation and necessary paperwork will be sent to the Secretary of State before the next meeting. The Hilton Place Homeowner's Association also voted to open a checking account at Lexington State Bank after the association has received its charter. Each member agreed to contribute $13.00 to cover the expenses of incorporating the Association.

The goal at this point is to use our own resources to clean the lake access area. We will then make plans to improve the area as our resources allow. Members have expressed an interest in improving the area to make it safe for swimming and building a play area and picnic area for the families. Members also plan to provide some landscaping. Indian Fork and Cedar Cove have very nice common areas. Please visit these areas and see what other communities have accomplished. Lettie Gilligan will take pictures of these areas for discussion at our next meeting.

Our Association will also plan social activities and address problems and concerns of the members of the Association.



A Bylaw Subcommittee was formed which will be submitting proposed bylaws at the next meeting. This subcommittee consists of Sissy Freeman, Virginia Lee and Sandra Ray. The proposed bylaws will be discussed at the October meeting. They will then be distributed at this meeting to be voted on at the November meeting.

The Association has planned a work day to clean the common area on Saturday October 3, 1992 from 10:00 to 4:00 pm. The fence has been removed and plans are being now being made to deed this property to the Association. Child care will be provided so that the adults can work. If you plan to attend, please call Mark Kroske. He will be coordinating the first clean up day. We need both manpower and yard equipment.

Cold drinks will be provided and someone will be picking up chicken for lunch. Please plan to contribute $3:00 per person for the lunch.

The next Homeowner's Association will meet on October 14, 1992 at 7:00 pm at Val and Sandra Ray's home located at 120 Killian Point Circle. If childcare is needed Julie Freeman and Kitty Coleman will be available to watch children at the Coleman Home located at 149 Killian Point Circle. The babysitting for contributions to be made those utilizing their services.

The Association voted to meet monthly on the second Monday of every month at 7:00 pm at the home of one our members.

We are preparing a list of teenagers interested in babysitting. If your teenage is interested in being included on our list please have your teenager call Sandra Ray.

Children congregate at the intersection of Hilton Point Road and Hilton Point Circle. Please drive slowly and carefully as you approach this intersection. Please also remind all drivers in your household. It is appreciated by your neighbors.

MEMBERS

Jake and Susie Coleman
149 Killian Point
Chapin, SC 29036
345-1287
Children:
Kitty-13 years
Jacob-9 years

Sissy and Tommy Freeman
205 Killian Point Road
Chapin, SC 29036
345-9978
Children:
Julie-9 years
Will-3 years

Tom and Lettie Gilligan
142 Killian Point Road
Chapin, SC 29063
345-9388
Children:
Jason-9 years
Meggan-8 years
Patrick-5 years

Steve and Linda Holleman
218 Killian Point Road
Chapin, SC 29036
345-3117
Children:
Amy-16 years
Nathan-15 years

Mark and Cindy Kroske
117 Big Thursday Court
Chapin, SC
345-0267
Children:
Jennifer-7 1/2 years
Michelle-4 1/2 years

Danny and Virginia Lee
103 Killian Point Circle
Chapin, SC 29036
345-9880
Children:
Christopher-9 years
Lauren-3 years

Val and Sandra Ray
120 Killian Point Circle
Chapin, SC 29063
345-7037
Children:
Carrie-4 1/2 years

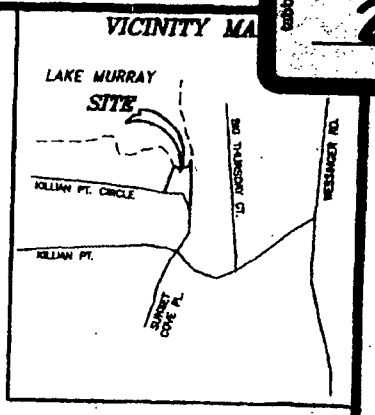
Danny and Teresa Wilds
121 Big Thursday
Chapin, SC 29063
345-0900
Children:
Charlie-2 years

PLAINTIFF'S EXHIBIT 21

NOTES AND REFERENCES

1. BEING SHOWN AS LEXINGTON CO. TAX MAP #001635-03-009.
2. BEING SHOWN AS THE SAME "LAKE ACCESS" PARCEL AS PER SUBDIVISION PLAT OF HILTON PLACE PREPARED FOR CHARLES COLEMAN DATED SEPTEMBER 19, 1983 LAST REVISED DECEMBER 1982 AND RECORDED AS PB.194G-PG.60.
3. BEING SHOWN AS THE SAME "LAKE ACCESS" PARCEL AS PER SUBDIVISION PLAT HILTON PLACE BY JOHNNY T. JOHNSON & ASSOCIATES DATED SEPTEMBER 19, 1983 LAST REVISED FEBRUARY 27, 1991 AND RECORDED AS PB.242-PG.150. 2004 BY DOUGLAS E. PLATT SR. RLS, AND RECORDED AS BK.9609-PG.177.
4. A PORTION OF THIS PROPERTY IS SHOWN TO BE LOCATED WITHIN THE ZONE "A" AND SHADED ZONE "X" FLOOD PRONE AREA, AS PER F.I.R.M. #45063C-0105G, EFFECTIVE FEBRUARY 9, 2000.
5. THIS TRACT MAY BE SUBJECT TO EASEMENTS, RESTRICTIONS OR OTHER CONDITIONS FOUND IN A COMPLETE TITLE SEARCH OR UNRECORDED DOCUMENTS NOT SHOWN HEREON. THIS PLAT WAS PREPARED WITHOUT A FORMAL TITLE SEARCH AND DOES NOT PURPORT TO DISCLOSE ALL ASSOCIATED CONDITIONS OF TITLE.

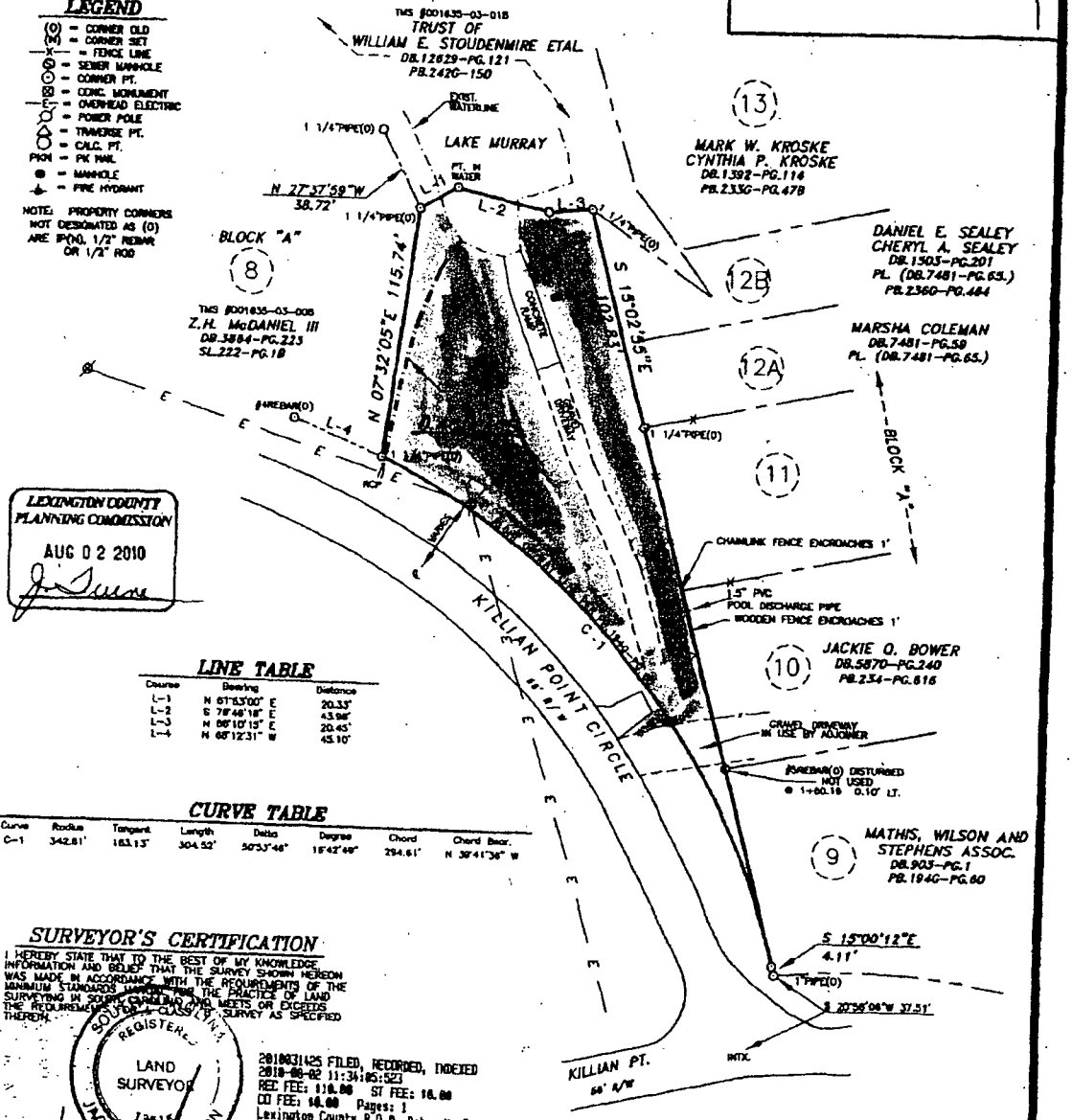
VICINITY MAP



LEGEND

(O) = CORNER OLD
(M) = CORNER SET
-X- = FENCE LINE
(S) = SEWER MANHOLE
(C) = CORNER PT.
(M) = CONC. MONUMENT
-E- = OVERHEAD ELECTRIC
= POWER POLE
= TRAVERSE PT.
= CALC. PT.
PKN = PK NAIL
= MANHOLE
= FIRE HYDRANT

NOTE: PROPERTY CORNERS NOT DESIGNATED AS (O) ARE IP(NO. 1/2" REBAR OR 1/2" ROD



LEXINGTON COUNTY PLANNING COMMISSION
AUG 02 2010

LINE TABLE

Course	Bearing	Distance
L-1	N 61°53'00" E	20.33'
L-2	S 78°46'18" E	43.98'
L-3	N 86°10'15" E	20.45'
L-4	N 68°12'31" W	45.10'

CURVE TABLE

Curve	Radius	Tangent	Length	Delta	Degree	Chord	Chord Bear.
C-1	342.81'	163.13'	304.52'	50°53'46"	16°42'46"	294.61'	N 39°41'36" W

SURVEYOR'S CERTIFICATION

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THAT THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREON.

SOUTH CAROLINA REGISTERED LAND SURVEYOR
JACK O. ANDERSON
7/19/10

JACK O. ANDERSON
P.O. BOX 284
GASTON, S.C. 29053

SCPLS #13515
248 S. MAIN ST.
(803) 739-7168

2010031425 FILED, RECORDED, INDEXED
2010-08-02 11:34:05:523
REC FEE: 10.00 ST FEE: 10.00
CO FEE: 10.00 Pages: 1
Lexington County R.O.D. Debra N. Gunter
PLAT OVERSIZED Bk:Pg 14372:385

GRAPHIC SCALE – FEET
50 0 50 100 150

HILTON PLACE SUBDIVISION "LAKE ACCESS" PARCEL BOUNDARY SURVEY

PREPARED FOR

JUDSON P. SMITH

NEAR HILTON, S.C. LEXINGTON COUNTY

SCALE: 1" = 50'	
DATE: JULY 14, 2010	
DRAWN: JOA	
CHECKED: JOA	
SHEET 1 OF 1	

Anderson & Associates
Land Surveying, Inc.

SOUTH CAROLINA ANDERSON & ASSOCIATES LAND SURVEYING INC. No. C00840 CERTIFICATE OF AUTH.

PENDAD 800-451-8888

PLAINTIFF'S EXHIBIT 5 NO. 2021-12

392

10 RE 0345

Instrument: 1997040192 Book/Page R 4340 : 276.1 DateTime: 09/24/1997 09:05:00:000 Document: 01

BK4340PG277

45.60
193.60

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF LEXINGTON)

FILED
SEP 24 9 05 AM '97
DEBRA M. GUNTER
RMC LEXINGTON COUNTY

KNOW ALL MEN BY THESE PRESENTS, that DAN M. RANDALL AND JENNIFER P. RANDALL ("Grantors"), in the State aforesaid, for and in consideration of the sum of One Hundred Seventy-six Thousand and 00/100 Dollars ($176,000.00) to them in hand paid at and before the sealing of these Presents by MARK S. CAMPITELLA AND CHRISSIE E. CAMPITELLA ("Grantees"), the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and conveyed, and by these Presents do grant, bargain, sell, release and convey unto

MARK S. CAMPITELLA AND CHRISSIE E. CAMPITELLA, THEIR SUCCESSORS, HEIRS AND ASSIGNS FOREVER,

THE FOLLOWING DESCRIBED PROPERTY:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION WHICH IS INCORPORATED HEREIN BY REFERENCE.

DOCUMENTARY TAX
STATE 45.60
SEP 24 1997
COUNTY 193.60

TMS: 1635-02-004 AND 1635-01-17

GRANTEES' ADDRESS: 117 Killian Point Circle
Chapin, SC 29036

This conveyance is subject to all easements, restrictions and conditions appearing of record affecting the above-described property.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the Grantees, their Heirs, Successors and Assigns forever.

And the Grantors do hereby bind themselves and their successors, heirs and assigns to warrant and forever defend all and singular the said premises unto the Grantees, their Heirs, Successors and Assigns against themselves and their heirs, successors and assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

40192

Debra M.Gunter

Lexington County Register of Deeds

PLAINTIFF'S EXHIBIT 22

393

Instrument: 1997040192 Book/Page: R 4340 : 276.2 DateTime: 09/24/1997 09:05:00:000 Document: 01

Debra M.Gunter

Lexington County Register of Deeds

IN WITNESS WHEREOF, Grantors have caused these presents to be executed this 18th day of September in the year of our Lord One Thousand Nine Hundred and Ninety-Seven and in the Two Hundred Twenty-second year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

WITNESS

WITNESS

Dan M. Randall

Jennifer P. Randall

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) PROBATE

PERSONALLY APPEARED before me the undersigned witness who, being duly sworn, deposes and says that s/he saw the within-named Grantors sign, seal and, as their act and deed, deliver the within Title to Real Estate, and that s/he with the other witness witnessed the execution thereof.

SWORN to before me this
18th day of September, 1997.

Notary Public for South Carolina
My Commission Expires: 11-30-99

Instrument: 1997040192 Book/Page: R 4340 : 276.3 DateTime: 09/24/1997 09:05:00:000 Document: 01

BK4340PG279

EXHIBIT A

All those certain pieces, parcels or lots of land, with the improvements thereon, situate, lying and being near the Town of Hilton, in a subdivision known as Hilton Place, County of Lexington, State of South Carolina, being shown and designated as Lot No. Two (2), Block B, and Lot No. Two-B (2-B) on a plat prepared for Charles S. Coleman by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at Page 60, and having such boundaries and measurements as shown on said plat; and being further shown and designated on plats prepared for Mark S. Campitella and Chrissie E. Campitella by Cox and Dinkins, Inc., dated September 16, 1997 and recorded in the Office of the RMC for Lexington County in Plat Book 281 at Page 425 and Plat Book 281 at Page 426 Reference being made to said plats which are incorporated herein by reference for a more accurate and complete description; all measurements being a little more or less.

This being the same property conveyed to the Grantor by Deed of Charles S. Coleman and E. L. Stoudemire dated July 1, 1985 and recorded in the Office of the RMC for Lexington County in Deed Book 738 at Page 220.

TMS: 1635-02-004 and 1635-01-17

Debra M Gunter

Lexington County Register of Deeds

Chrissie Campitella

Lots and Acreage

MLS#: 258451

1/19/2012 12:53 P.M.



The listing company for this property has indicated that this listing should not be used as a comp.

Status: Closed
Area: 20 Lake Murray (Irmo, Chapin Side)
Class: Lots and Acreage Type: Resort

Listing Price: $60,000
Original Price: $110,000
$/Acre: $83,333

Address: 0 KILLIAN POINT CIRCLE Lot # LA
Subdivision: HILTON PLACE
City: Chapin
Zip: 29036
County: Lexington
Parcel ID#: 001635-03-009

Acres: 0.6

# of Lots Remaining:

Elementary: Lake Murray (Lex5)
Intermd:
Middle: Chapin
High: Chapin
District: Lexington/Richland Five

Lot Size: 86 feet +/- waterfront; 296 feet +/- road frontage

Zoning:
Road Frontage:
Water Frontage: 86

Directions:
76 to Wessinger to right on Killian Point; pass Big Thursday; rt on Killian Point Circle; lot is directly in front on curve.

Lease:
Sales Options:
Sales Includes:
Mobile Allowed:

Water: Public
Sewer: None
Gas:
Electric:

Structures:
Products:
Documents:
Restrictions:

Improvements: Boat Ramp
Fencing:
Soil:
Other Util:

Topography:
Vegetation:
Rights Reserved: Other
Miscellaneous:

Location: Water
Water Front Type: On Lake Murray
Road Surface: Paved
Road Type: County

Prop Disc/Exempt: Y / N
Miscellaneous:
Roll Back Taxes: No

Deed Book:
Foreclosed:

Plat Book: 242/150

Remarks: This is the lake access lot for Hilton Place. Off-water lot owners will continue to have access via this lot after sale--hence the competitive price. Not approved for dock. Water frontage believed to be 86 feet (+/-) but is to be verified. Acreage is approximate. No sewer available. Some utility easements exist on sides of lot.

Agent Remarks: Should not use as lake comp. No septic, no dock permit, not buildable. Lot is not numbered on subdivision plat but is designated as "lake access" lot.Please understand and explain that the lot will continue to be encumbered by all off-water owners retaining access to the waters of Lake Murray.

Available Financing: Cash, Conventional

Assn/Regime Fee Per:

Selling Office: Asset Realty, Inc. 02
Selling Agent: Stan Conine
Co-Sell Office:
Loan Type: Cash

Sell Office Ph: 803-798-2300
Sell Agent Ph: 803-217-1061
Co-Sell Agent:
CC Pd By: Buyer / $

Contract Date: 6 / 21 / 2010
Closed Date: 7 / 29 / 2010

Selling Price: $25,000 Sell $ Per Acre: $41666.67

Showing: Sign
Owners Names: Coleman, et.al.
Listing Agent: Stan Conine
Co-List Agent: Dusty Conine
Listing Office: Asset Realty, Inc. 02
Office Phone: 803-798-2300
Office Fax: 803-798-2398

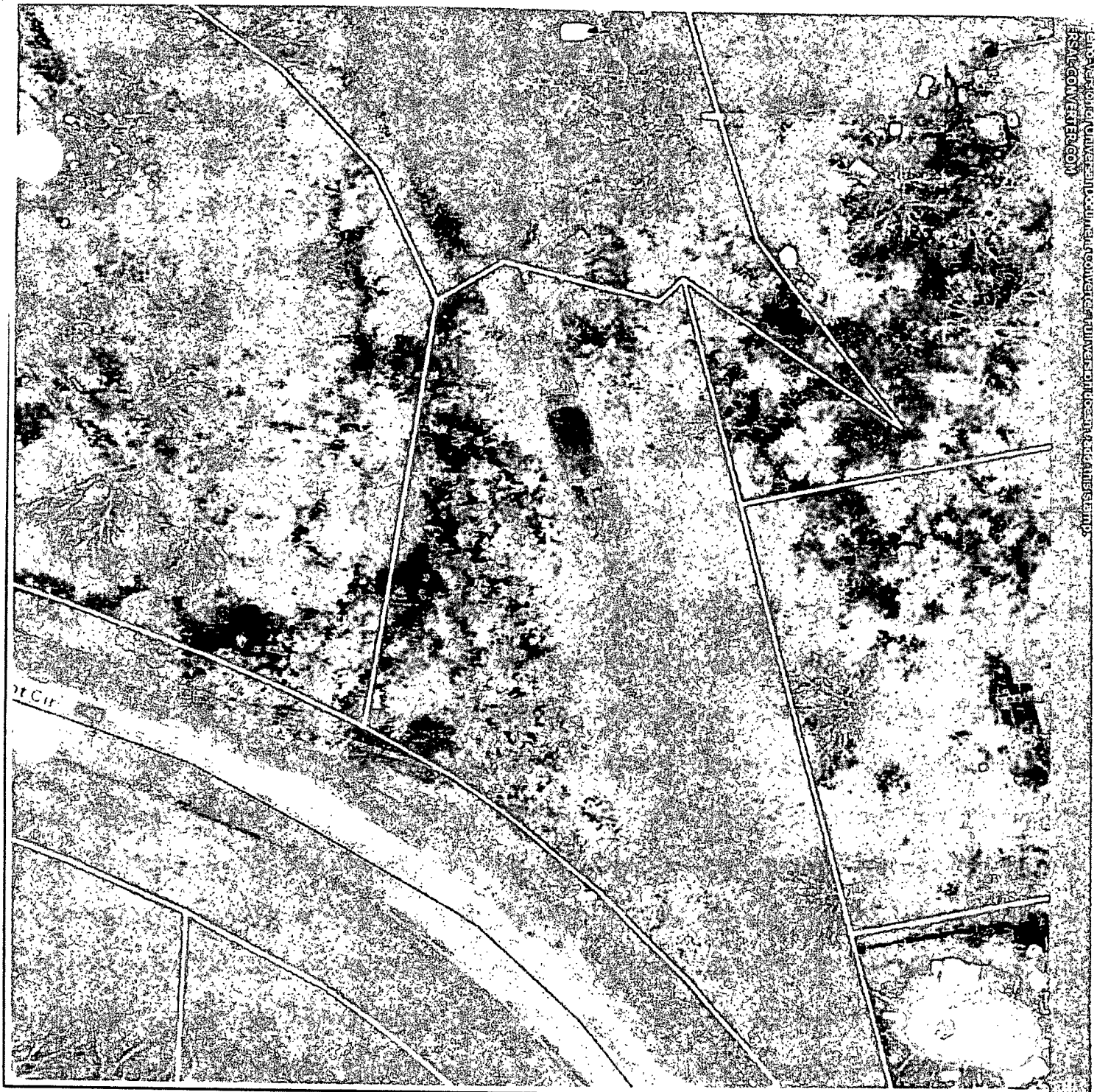
Possession: Closing
Owners Phone: 000-0000
Agent Phone: 803-217-1061
Agent Fax: 803-798-2398
Agent Cell: 803-217-1061
Co-List Phone: 803-217-1061
Co-List Cell: 803-217-1061

Listing Date: 1 / 5 / 2010
Expiration Date:
DOM: 167
Comp SB: 4.0 VC: N List Type: ERTS
Agent E-mail: co9group@earthlink.net

Information Herein Deemed Reliable, but Not Guaranteed. © 2012 by CMLS 1/19/2012 12:53:55 PM

PLAINTIFF'S EXHIBIT 23

396



TMS 001635-03-009

Lake Access Lot 2003

Printed: Jul 24, 2013

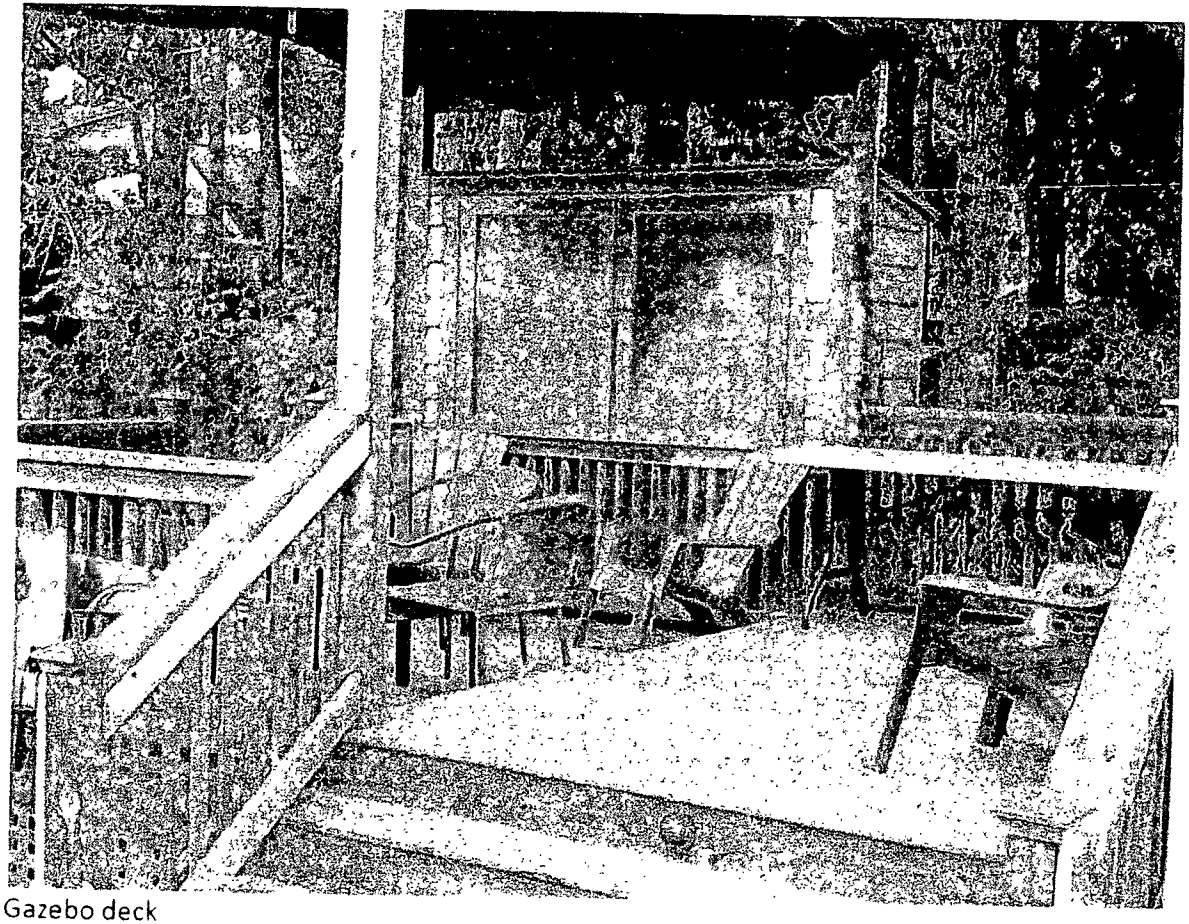
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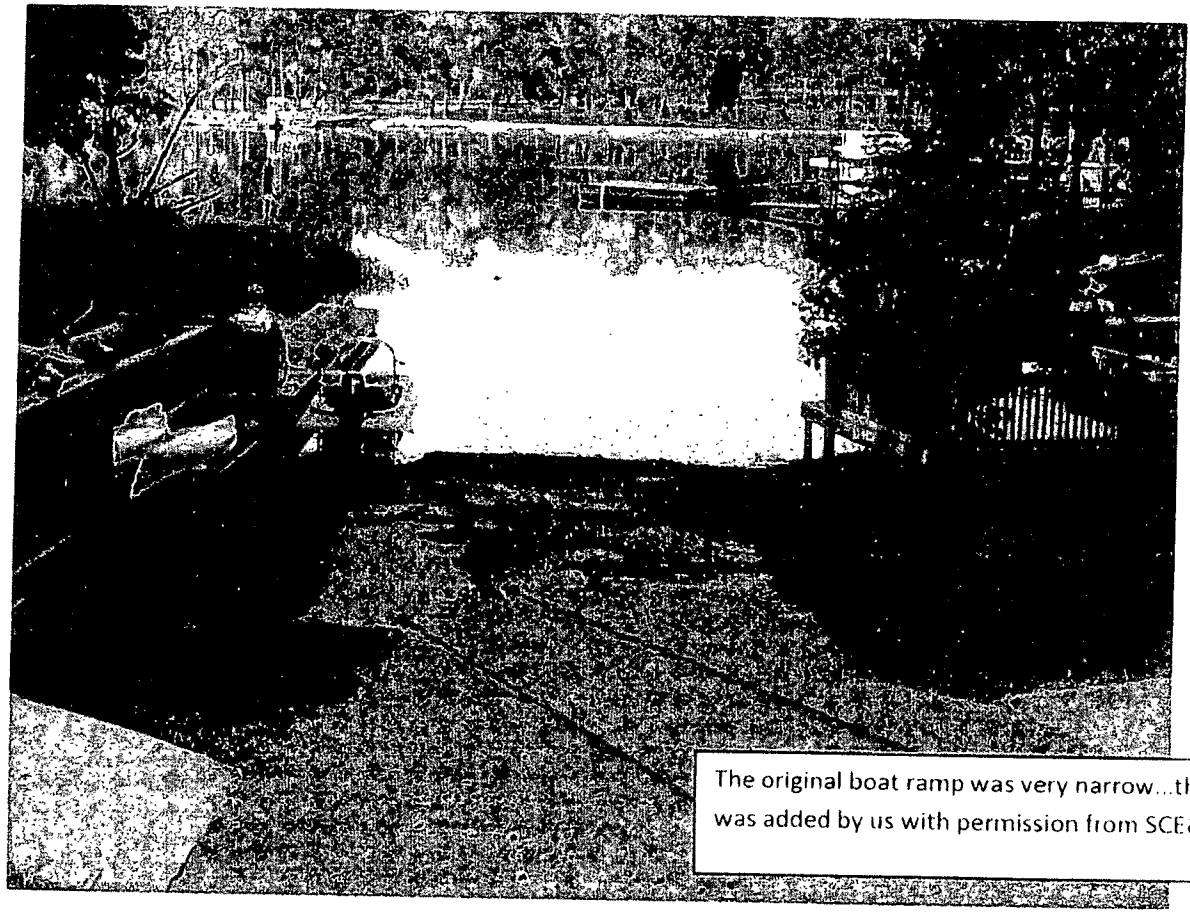
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Deponent
Date 7/30/13 Dpt: DJ
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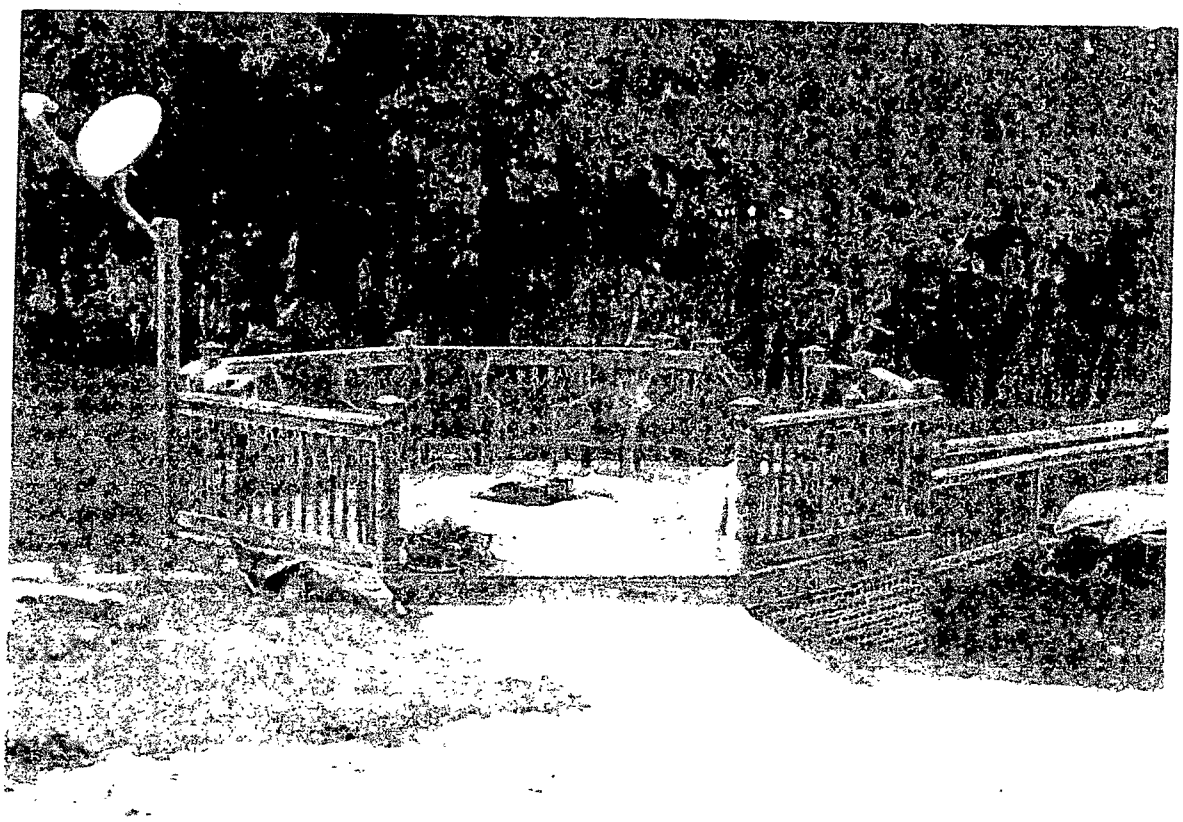


Gazebo deck

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Date 7/30/13 Rpt. NG
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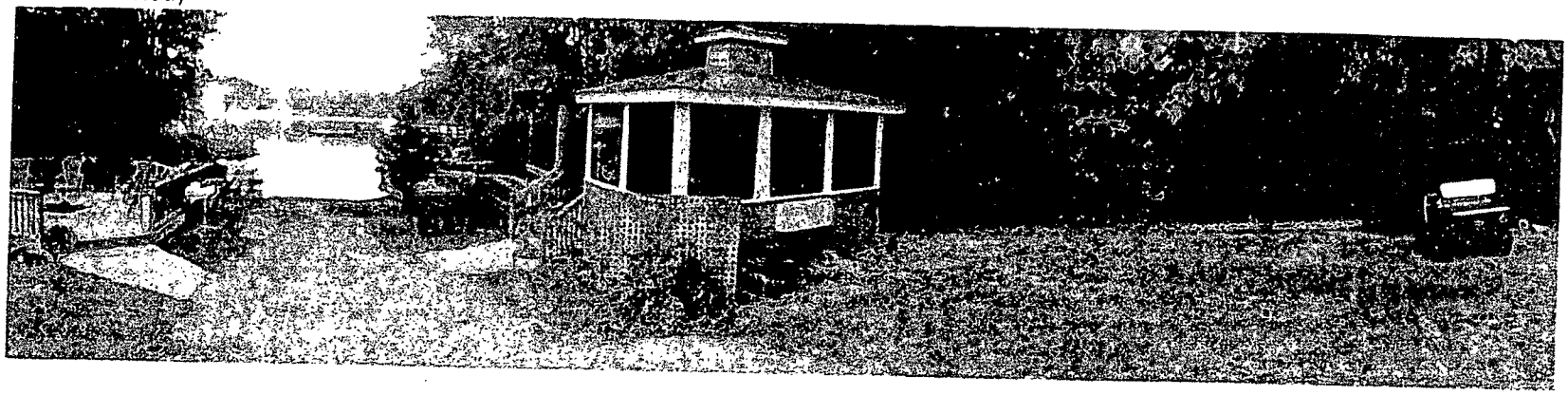


The original boat ramp was very narrow...the concrete was added by us with permission from SCE&G

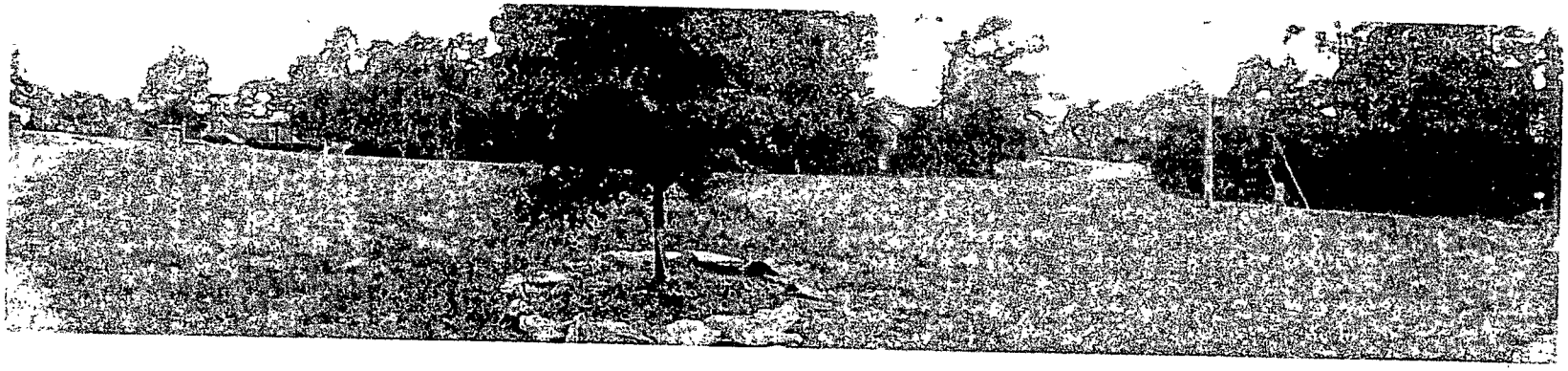


Fire pit

Standing in driveway near the bathroom looking down at lake (fire pit and dock on left...boat is docked on left...concrete boat ramp is unrestricted)



Standing in driveway looking at Killian Point Circle



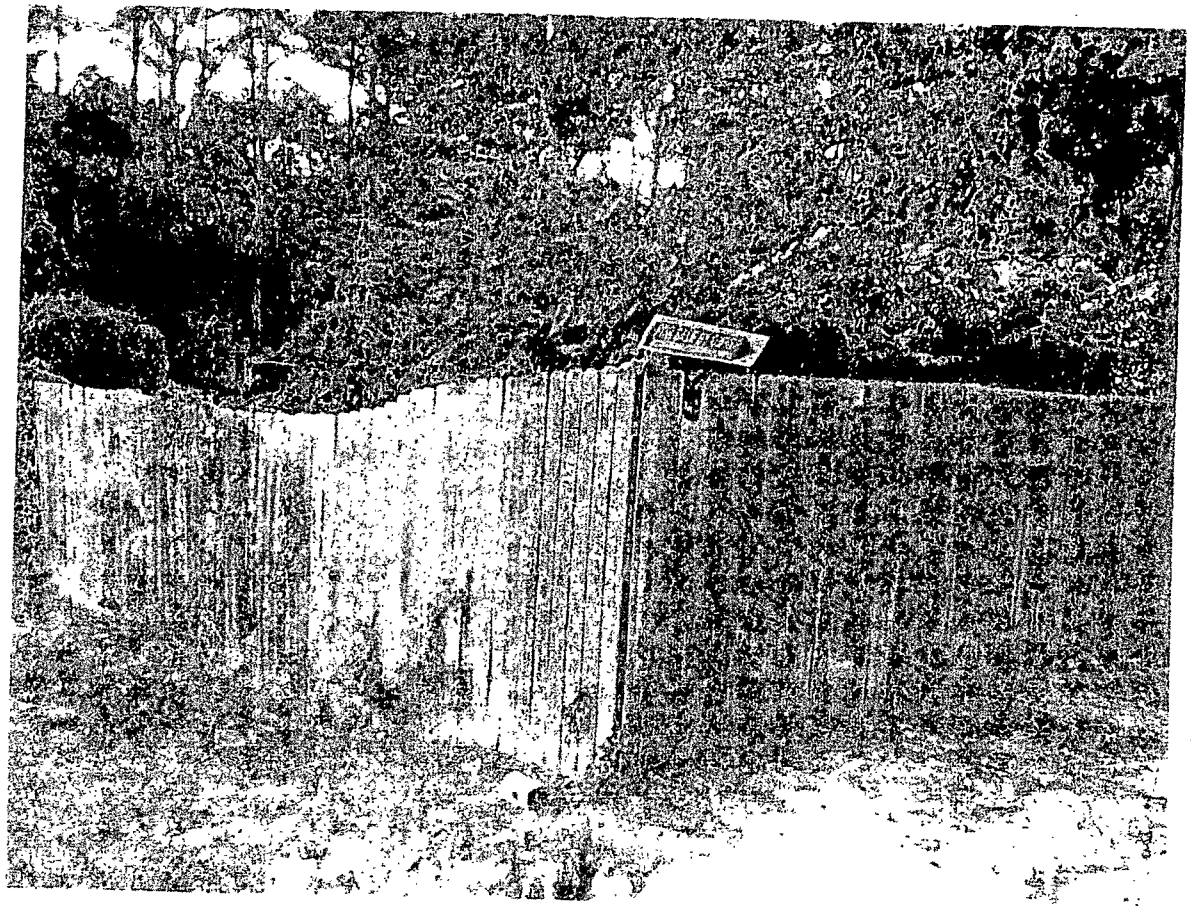


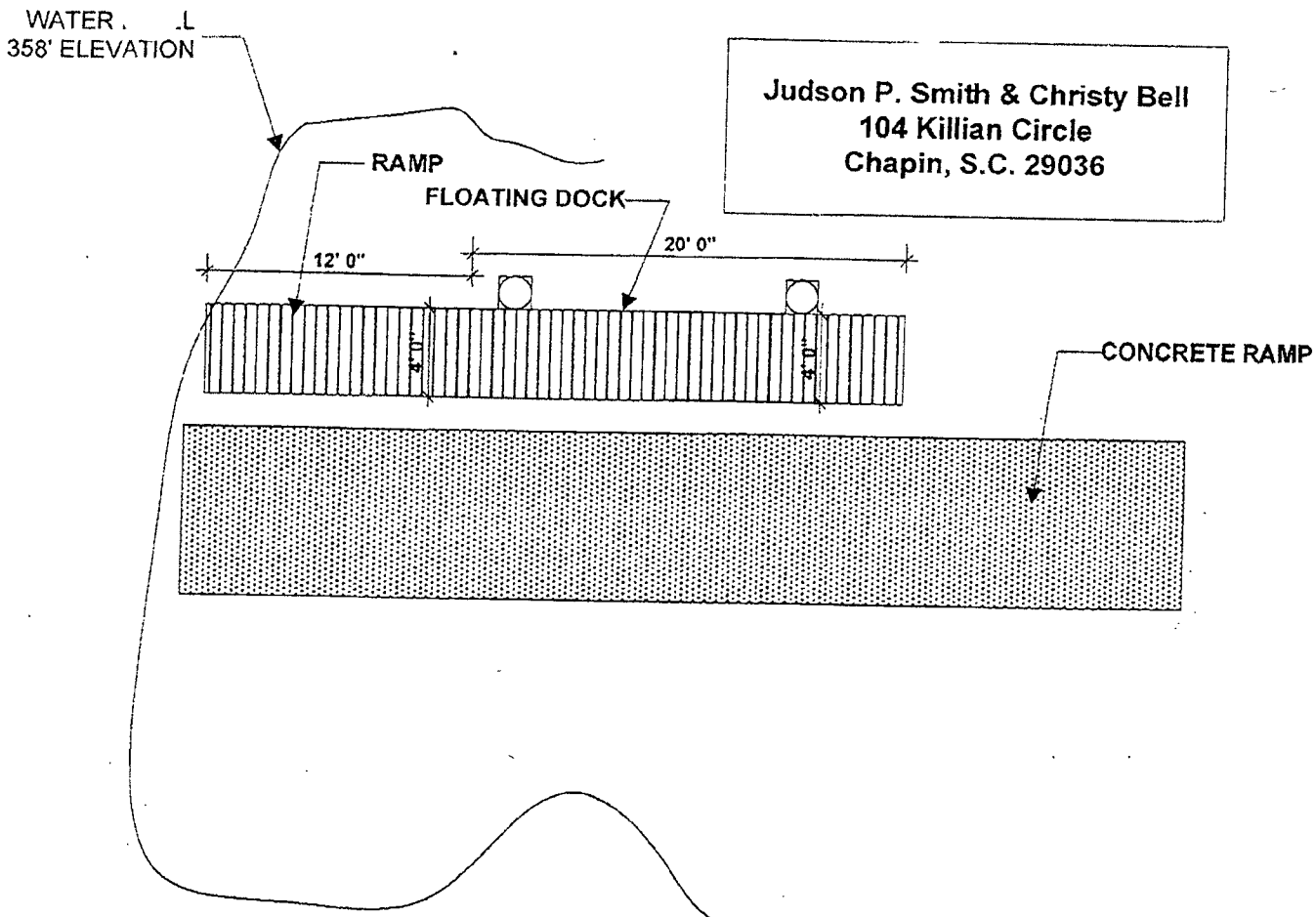
Gazebo interior





This is his fence that was not approved and crosses over our property line





Judson P. Smith & Christy Bell
104 Killian Circle
Chapin, S.C. 29036

SCE&G
Lake Management
Date Approved: 2-15-11

SCE&G® A SCANA COMPANY

Project Representative: Tommy Boozer

Comments:

EXHIBIT 3
Deponent
Date 7/30/13 Dptr. AG
www.DEPOBOOK.com

4pb

PERMIT TO CONSTRUCT AND OPERATE
Onsite Wastewater System

File Nbr 2010090002
County: Lexington

Name: CHRISTY BRABHAM BELL

Type Facility: STORAGE BUILDING

Subdivision:

Block: Lot:

Address: 920 SAINT ANDREWS RD
COLUMBIA, SC 29210

Site: 104 KILLIAN POINT CIR
CHAPIN, SC 29036

Program Code: 360

System Code: 100

TM#: 01635-03-009

Water Supply: PUBLIC

PERMIT TO CONSTRUCT SYSTEM SPECIFICATIONS

Daily Flow (gpd): 30

LTAR: .40

Tank Sizes (gal): Septic Tank: 1000 Pump Chamber: Grease Trap:

Trenches: Length (ft): 25 Width (in): 36 Max. Depth (in): 29 Agg. Depth (in): 14

Min Pump Capacity: gpm at ft. of Head

SPECIAL INSTRUCTIONS/CONDITIONS

THIS PERMIT IS SITE SPECIFIC. ANY CHANGES TO THE SYSTEM MUST BE APPROVED BY DHEC.
ANY UNAPPROVED CHANGES WILL VOID THIS PERMIT.

--This permit is for a private recreational area with minimal use.
--Install the wastewater infiltration trenches with the contours of the ground in the area shown.
--Do not drive or park over any portion of the onsite wastewater system.
--Maintain a minimum of 75 feet from any wells or the 360-foot contour elevation of Lake Murray, and 5 feet from any building or property line.
--No changes may be made to the location of the onsite wastewater system without approval of the Department.

PERMIT TO CONSTRUCT SYSTEM DIAGRAM (NTS)

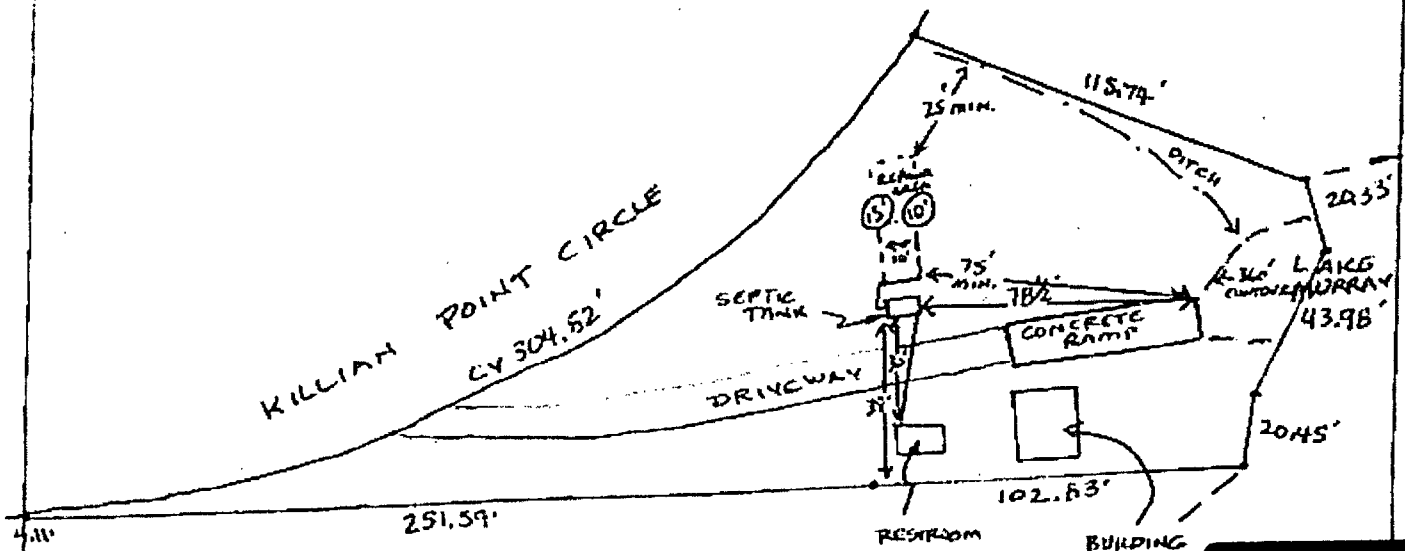


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Deponent 2968
Date 7/30/13 Rptr. NG
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Issued/Revised By: E. Eugene Brasseale Date: 8/15/2011

DHEC 1781 (8/4/2008)

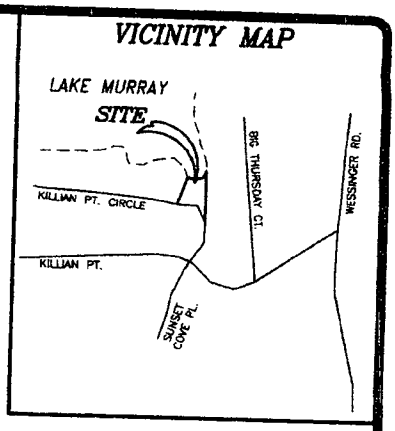
MAILED

This Permit is Appealable Under the Administrative Procedures Act.
This Permit will Expire and Become Null and Void Five (5) Years from the Issuance Date.
There may be an Additional Fee for Changes in this Permit that Require a Site Reevaluation.

NOTES AND REFERENCES

1. BEING SHOWN AS LEXINGTON CO. TAX MAP #001635-03-009.
2. BEING SHOWN AS THE SAME "LAKE ACCESS" PARCEL AS PER SUBDIVISION PLAT OF HILTON PLACE PREPARED FOR CHARLES COLEMAN DATED SEPTEMBER 19, 1983 LAST REVISED DECEMBER 1982 AND RECORDED AS PB.194G-PG.60.
3. BEING SHOWN AS THE SAME "LAKE ACCESS" PARCEL AS PER SUBDIVISION PLAT HILTON PLACE BY JOHNNY T. JOHNSON & ASSOCIATES DATED SEPTEMBER 19, 1983 LAST REVISED FEBRUARY 27, 1991 AND RECORDED AS PB.242-PG.150. 2004 BY DOUGLAS E. PLATT SR. RLS, AND RECORDED AS BK.9609-PG.177.
4. A PORTION OF THIS PROPERTY IS SHOWN TO BE LOCATED WITHIN THE ZONE "A" AND SHADED ZONE "X" FLOOD PRONE AREA, AS PER F.I.R.M. #45063C-0105G, EFFECTIVE FEBRUARY 9, 2000.
5. THIS TRACT MAY BE SUBJECT TO EASEMENTS, RESTRICTIONS OR OTHER CONDITIONS FOUND IN A COMPLETE TITLE SEARCH OR UNRECORDED DOCUMENTS NOT SHOWN HEREON. THIS PLAT WAS PREPARED WITHOUT A FORMAL TITLE SEARCH AND DOES NOT PURPORT TO DISCLOSE ALL ASSOCIATED CONDITIONS OF TITLE.

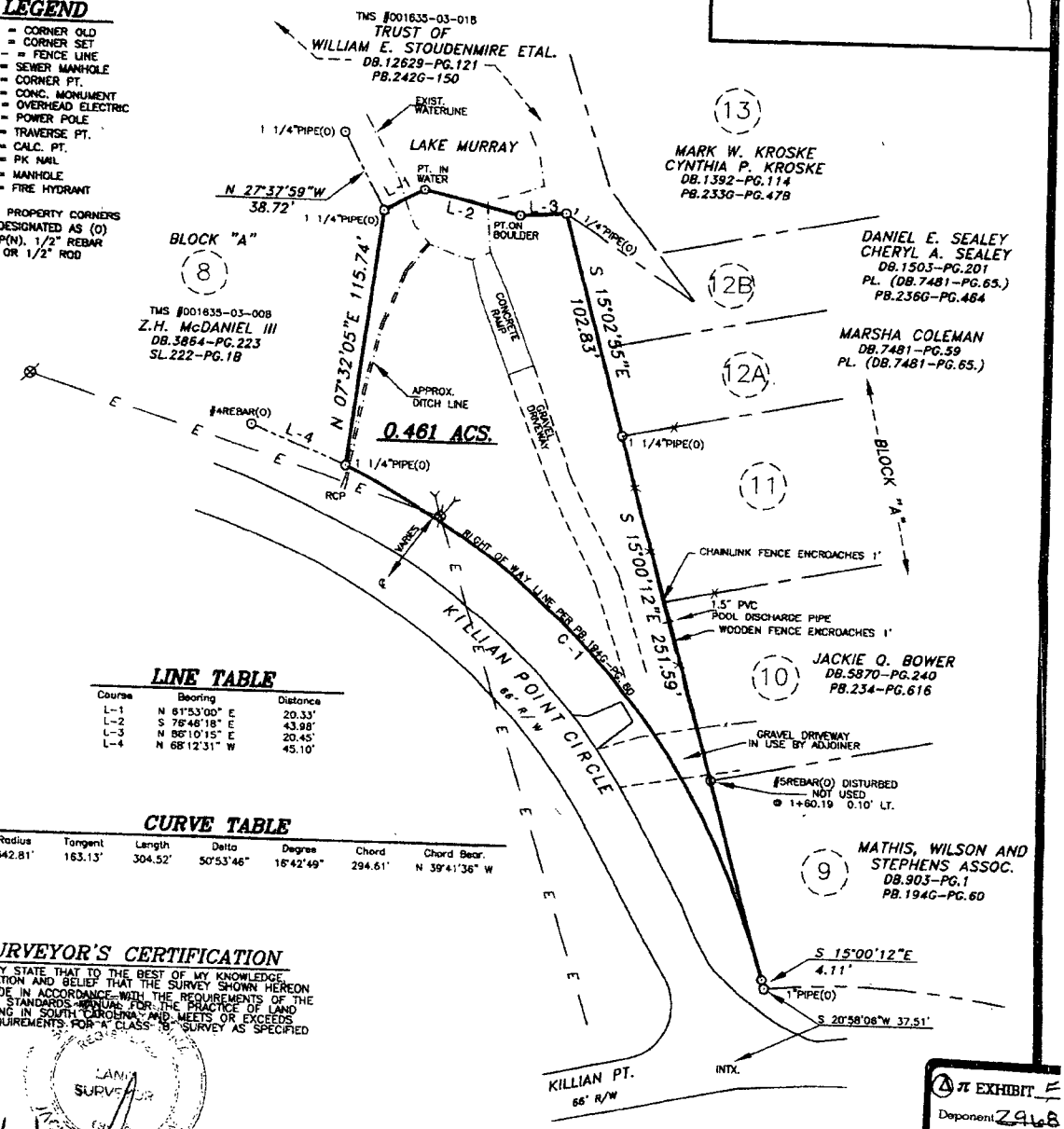
VICINITY MAP



LEGEND

(O) = CORNER OLD
(N) = CORNER SET
= FENCE LINE
= SEWER MANHOLE
= CORNER PT.
= CONC. MONUMENT
= OVERHEAD ELECTRIC
= POWER POLE
= TRAVERSE PT.
= CALC. PT.
PKN = PK NAIL
= MANHOLE
= FIRE HYDRANT

NOTE: PROPERTY CORNERS NOT DESIGNATED AS (O) ARE IP(N), 1/2" REBAR OR 1/2" ROD



LINE TABLE

Course	Bearing	Distance
L-1	N 61°53'00" E	20.33'
L-2	S 76°46'18" E	43.98'
L-3	N 86°10'15" E	20.45'
L-4	N 68°12'31" W	45.10'

CURVE TABLE

Curve	Radius	Tangent	Length	Delta	Degree	Chord	Chord Bear.
C-1	342.81'	163.13'	304.52'	50°53'46"	16°42'49"	294.61'	N 39°41'36" W

SURVEYOR'S CERTIFICATION

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THAT THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "S" SURVEY AS SPECIFIED THEREIN.

LAND SURVEYOR

7/19/10

JACK O. ANDERSON
P.O. BOX 224
GASTON, S.C. 29053

SCPLS #13515
248 S. MAIN ST.
(803) 739-7168

EXHIBIT F
Deponent ZG168
Date 12/03 Rptr N
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50 0 50 100 150
GRAPHIC SCALE – FEET

HILTON PLACE SUBDIVISION
"LAKE ACCESS" PARCEL
BOUNDARY SURVEY
PREPARED FOR
JUDSON P. SMITH

NEAR HILTON, S.C. LEXINGTON COUNTY

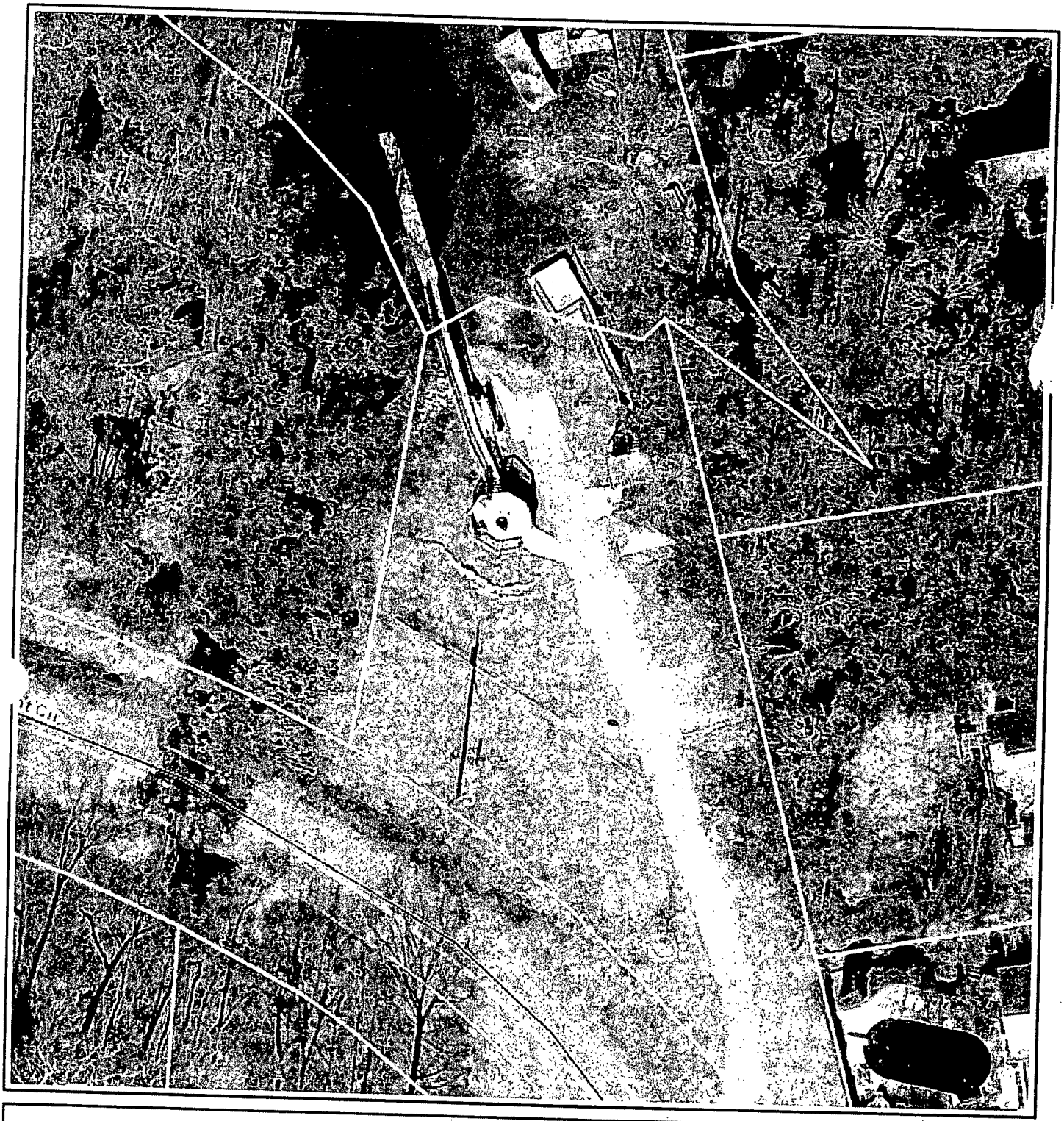
201024

SCALE: 1" = 50'
DATE: JULY 14, 2010
DRAWN: JOA
CHECKED: JOA
SHEET 1 OF 1

Anderson & Associates
Land Surveying, Inc.

SOUTH CAROLINA
ANDERSON & ASSOCIATES LAND SURVEYING, INC. No. C00647
CERTIFICATE OF AUTHORIZATION

408



TMS 001635-03-009

Lake Access Lot

Printed: Jul 24, 2013

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Δ π EXHIBIT 6
Deponent Z968
Date 7/30/13
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Δ π EXHIBIT
Deponent 2968
Date 7/30/15 Dptr. NJ
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TMS 001635-03-018

Lake Lot

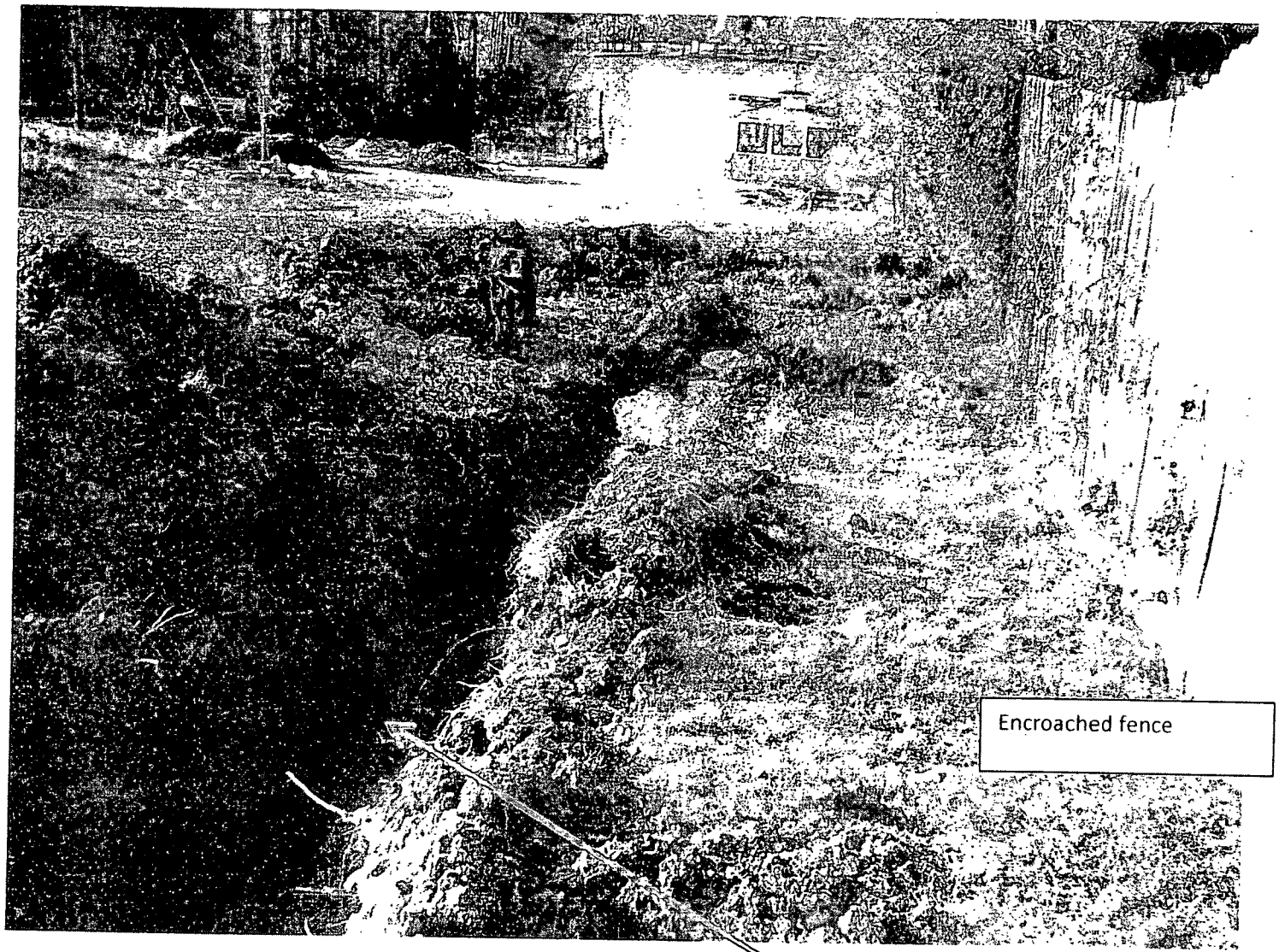
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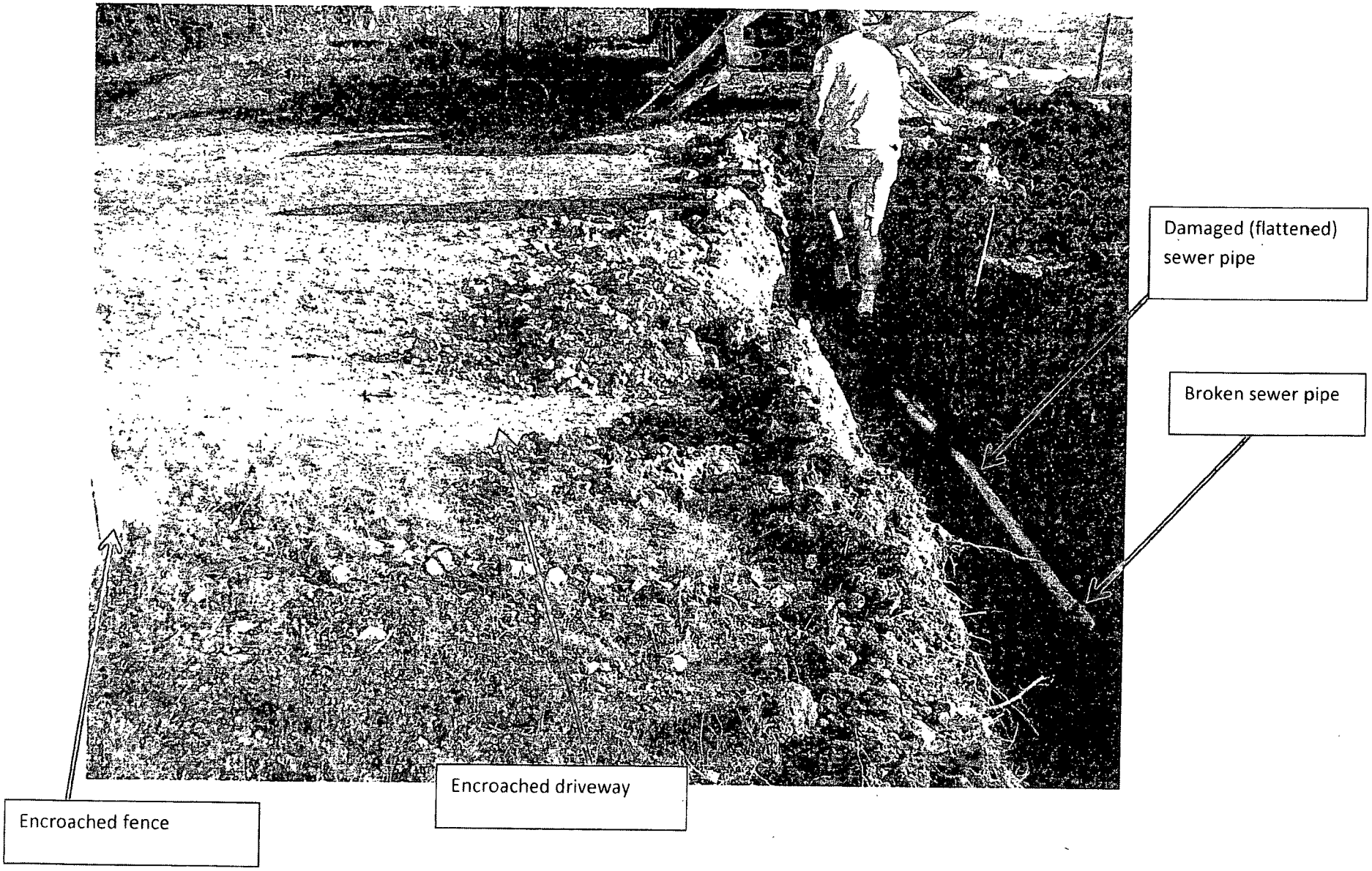
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Δπ EXHIBIT 10
Deponent Z9e8
Date 7/30/13 Rptr
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Damaged (flattened) sewer pipe
Broken sewer pipe
Encroached driveway
Encroached fence


Damaged (flattened) sewer pipe under encroached driveway
Broken sewer pipe under encroached driveway

Pooled sewage
Broken sewer pipe under encroached driveway

Book/Page: 5089/221 (This is not an Official Copy)

STATE OF SOUTH CAROLINA)
) CONFIRMATORY AMENDMENT TO
COUNTY OF LEXINGTON) RESTRICTIONS HILTON PLACE
SUBDIVISION (Reference Book 611 page 232)

WHEREAS, on or about October 12, 1983 Charles S. Coleman and E. L. Stoudenmire a/k/a Everette L. Stoudenmire executed those certain covenants, restrictions and restrictions entitled "RESTRICTIONS HILTON PLACE SUBDIVISION (hereinafter the "Restrictions"); and

WHEREAS, the Restrictions were thereafter recorded in the Lexington County RMC Office on or about October 12, 1983 in Book 611 Page 232; and

WHEREAS, paragraph 12 of the Restrictions intended to impose the Restrictions on the "lots" shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised and recorded in the Lexington County RMC in Plat Book 194-G at page 60; and

WHEREAS, the aforesaid Plat Book 194-G at page 60 also depicted certain other real property owned by Charles S. Coleman and E.L. Stoudenmire which other real property was not and is not a part of Hilton Place Subdivision and which other real property was not divided into "lots" at the time of the recording of the Restrictions; and

WHEREAS, Charles S. Coleman has since deceased and his wife Valiska F. Coleman has inherited his ownership of the subject property (see Deed of Distribution recorded in Book 2341 page 242); and

WHEREAS, E. L. Stoudenmire has since deceased and the subject property was devised to Ernestine K. Stoudenmire and Everette L. Stoudenmire, Jr. as Co-Trustees of Trust B created U/W Everette L. Stoudenmire dated 3/7/88 (see 98ES3200-724); and

WHEREAS, Ernestine K. Stoudenmire and Everette L. Stoudenmire, Jr. as Co-Trustees of Trust B created U/W Everette L. Stoudenmire dated 3/7/88 (see 98ES3200-724) (as heirs and assigns of E.L. Stoudenmire) and Valiska F. Coleman (as heir and assign of Charles S. Coleman) are desirous of clarifying that the Restrictions were only to apply to the individually platted and numbered lots shown thereon (ie., Lots 1-16 Block "A"; Lots 1-9 Block "B"; Lots 1-6 Block "C"; and Lots 1-2 Block "D") and not to any other property shown on the aforementioned plat and or owned by E.L. Stoudenmire (now Ernestine K. Stoudenmire and Everette L. Stoudenmire, Jr. as Co-Trustees of Trust B created U/W Everette L. Stoudenmire dated 3/7/88 (see 98ES3200-724) and Charles S. Coleman (now Valiska F. Coleman).

NOW, THEREFORE, for $5.00 and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged it is agreed as follows:

1. The aforementioned Restrictions (Book 611 Page 232) as heretofore modified are hereby amended to amend paragraph 12 to read as follows:

"Notwithstanding anything contained herein to the contrary, the covenants, conditions

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02/05/1999 09:02:04AM
Rec Fees: 10.00 St Fees: 0.00
Co Fees: 0.00 Pages: 2
LEX. CO. REGISTER OF DEEDS
DEBRA L. GUNTER

79-37

415

EXHIBIT 11
Deponent
Date Rptr.
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Book/Page: 5089/222 (This is not an Official Copy)

and restrictions are hereby imposed only upon those individually platted and numbered lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc. dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at page 60 those lots being Lots 1-16 Block "A", Lots 1-9 Block "B", Lots 1-6 Block "C" and Lots 1-2 Block "D". Nothing contained herein shall be construed to impose any covenants, conditions or restrictions on any other property shown on the aforesaid plat."

2. All other provisions of the Restrictions, as previously modified, not in conflict with this amendment shall remain in full force and effect.

3. In the event this amendment conflicts with any other provisions of the Restrictions (as previously modified and/or amended) this amendment shall supercede and govern.

Dated this 4th day of February, 1999.

WITNESSETH:

Ernestine K. Stoudenmire (SEAL)
Ernestine K. Stoudenmire, as Co-Trustee of Trust "B" created U/W Everette L. Stoudenmire dated 3/7/88

E. L. Stoudenmire Jr. (SEAL)
E.L. Stoudenmire, Jr., as Co-Trustee of Trust "B" created U/W Everette L. Stoudenmire dated 3/7/88

Valinka F. Coleman (SEAL)
Valinka F. Coleman

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF RICHLAND)

Personally appear before me the undersigned witness who first being duly sworn deposes and says that s/he saw the within named Ernestine K. Stoudenmire, E. L. Stoudenmire, Jr. and Valinka F. Coleman sign, seal and as their act and deed deliver the within written Confirmatory Amendment To Restrictions Hilton Place Subdivision, and that s/he with the other witness witnessed the execution thereof.

Sworn to before me this 4th
day of February, 1999.

Notary Public for S.C.
My Commission Expires 5-18-05

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A #: 11-CP-32-2968
	)	
Elizabeth L. Snow, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
Judson P. Smith, et al.,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF

VALISKA "SISSY" C. FREEMAN

****

Thursday, July 5, 2012
9:58 a.m. - 10:51 a.m.

The deposition of VALISKA "SISSY" C. FREEMAN, taken on behalf of the Plaintiffs at the law offices of WALKER-REIBOLD, 3321 Forest Drive, Suite 1, Columbia, South Carolina, on the 5th day of July, 2012 before Carla S. Dominick, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition.

Q: Have you ever had your deposition taken before?
A: No. I have not.
Q: Okay. What's your date of birth?
A: October 18, 1958.
Q: Are you married?
A: Yes. I am.
Q: To whom?
A: My husband is Tommy Freeman.
Q: And you guys have been married since before 1992, haven't you?
A: Yes.
Q: What year did you get married?
A: 1979.
Q: What's your current address?
A: 205 Killian Point, Chapin 29036.
Q: How long have you lived at 205 Killian Point?
A: Twenty-four years.
Q: Do you live in Hilton Place Subdivision?
A: Yes. I do.
Q: What year did you move there more or less?
A: We built the house in '88. Let's see -- wait a minute, wait '87 and we moved in, in '88.
Q: I'm going to show you Exhibit Fifteen and ask you if you recognize it?
(Plaintiff's Exhibit Number Fifteen is marked for

identification purposes.)

A: I know we did have a homeowner's association, but I -- I see these are minutes. Honestly, I don't know if I ever saw minutes and if I did, it was, you know, a long time ago.

Q: Do you recognize the document marked as Exhibit Fifteen?

A: Do I recognize it?

Q: Yeah.

A: Well, I. Yes.

Q: Okay. Is it an accurate copy of the minutes from about 1992 --

A: Now --

Q: -- for -- let me get my question out -- for Hilton Place Community Association?

A: Yes. Can I read it?

Q: Sure. Let me know when you're done.

A: Yeah. Yes. This looks right.

Q: Okay. Did you type this or did somebody else type it?

A: No. I did not type it.

Q: And did you attend a meeting of the Hilton Place Community Association in or about 1992?

A: Yes.

Q: I'm looking at page two, top sentence, to get

the date, it says the association has planned a work day to clean the common area on Saturday, October 3, 1992, do you see that?

A: Uh-huh (affirmative response). I do.

Q: Does that refresh your memory about 1992 or so?

A: Somewhat, but I -- I don't think I was at the cleaning of the, you know, the access.

Q: Okay. And when it refers on page two, second paragraph, to clean the common area, does that mean the lake access lot?

A: The lake access. Uh-huh (affirmative response).

Q: Is that a yes?

A: Yes.

Q: Okay. And when you say uh-huh and huh-uh, I'll just prompt you to say yes or no, sometimes.

A: Okay.

Q: I'm sorry, but it's got to be clear for the jury.

A: Sure.

Q: And how many meetings did you attend of the Hilton Place Community Association?

A: That has been so long ago, I -- I -- we didn't have many, I know that. As you can see, I was -- I was not an officer, but I might've

attended -- I don't even know how many we had. It was a very few.

Q: Did you attend more than one?

A: Yes.

Q: Okay. Did Hilton Place Community Association -- did it ever incorporate as an HOA or do you know?

A: I don't know.

Q: Who did you buy your lot from in Hilton Place?

A: It was my father's. He deeded it to me.

Q: And what was your father's name?

A: Charles S. Coleman, Sr.

Q: What was your mother's name?

A: Valiska.

Q: What is her full name?

A: Valiska Felder Coleman.

Q: Okay. And do you go by Sissy?

A: Yes. I do.

Q: Do you have any brothers or sisters?

A: I have three brothers.

Q: And what are their names?

A: Charles Junior.

Q: Charles S. Coleman, Jr.

A: S. Coleman, Jr.

Q: Okay.

builder's license and it's number four.
Q: Okay. And what do you do for a living?
A: I am the corporate secretary and office manager of Coleman Construction.
Q: How long have you been doing that?
A: For 32 years.
Q: What's the highest grade in school you completed?
A: Second year college.
Q: What did you study?
A: Education.
Q: Where?
A: University of South Carolina.
Q: And what does your job entail at Coleman Construction?
A: I am the officer manager. I do payroll, type documents, proposals.
Q: Do you make bids?
A: No.
Q: As I look at Exhibit Fifteen, which is the first one we're going to show you today -- that we're showing you, on the first page, it says the association voted to incorporate to limit any liability to the corporation, do you know who would've been in charge of doing that if it

incorporated?
A: The only thing that I know is, I know that my father stated that if a homeowner's association was formed, he and Mr. Stoudenmire would deed this property to the homeowner's association, which never happened.
Q: You're talking about the lake access property?
A: The lake access property and if it says common area, that's the lake access.
Q: Okay. Looking at the first page, last full paragraph, before our association paragraph, it says the goal at this point is to use our own resources to clean the lake access area. My question to you is, is that the lake access lot that the lawsuit is about?
A: That is correct.
Q: It says, we will then make plans to improve the area as our resources allow. Do you know what that meant at the time?
A: All that I know that we were going to make a picnic area down there and a playground.
Q: Was the lake access area intended to be a common area for all the homeowners in the association?
A: For the off-lake property owners. This -- this

property had four blocks. It was block A, which is lake -- and I mean the lake owners, block B, C, and D are off-lake property owners and that's what it was intended for them to access Lake Murray through this lot. Not to own it.

Q: Okay. The next sentence says -- I'm sorry -- not to -- what do you mean not to own it?

A: Not to own that property.

Q: No one was supposed to own that, correct?

A: That's right.

Q: Okay.

A: Uh-huh (affirmative response).

Q: It was supposed to be for the common use of all the --

A: All --

Q: -- B, C, and D off-lake owners, correct?

A: Off-lake owners. Uh-huh (affirmative response).

Q: Is that a yes?

A: That's correct.

Q: Okay. It says members have expressed an interest in improving the area to make it safe for swimming and building a play area and picnic area for the families. Was that the

intent of the lake access lot in 1992?
A: Well, the -- yes. Uh-huh (affirmative response).
Q: And since 1992, have you had occasion to visit or go by the lake access lot?
A: I have.
Q: And until it was sold in 2008 to Judson Smith, had anything been built on it?
A: Absolutely nothing. It was overgrowth.
Q: Had you ever used the lake lot to swim either for you or your kids?
A: No.
Q: How about to picnic?
A: No.
Q: Okay. How about to use as a play area?
A: No.
Q: Have you seen the photographs that we provided to your attorney showing that folks played on it over the years?
A: I have not seen photographs of anyone playing on that, no.
Q: Have you seen folks -- have you seen the photographs of the snow and folks playing on the lot then?
A: Of the snow. No.

that she's ever given -- given up any rights --
A: No.
Q: -- in her deeds?
A: No.
Q: Okay. Let me get my question out each time, okay? Okay?
A: Sure.
Q: Okay. And you came to be an owner of the lake access lot through a deed of distribution, didn't you?
A: Yes. I did.
Q: You became the owner of the lake access lot in 2007, correct?
A: Two?
Q: 2007.
A: Now I don't understand what you're saying.
Q: Did you become an owner of the lake access lot in or about 2007?
A: Oh. Yes. Well, it was in a will from our -- yeah. I didn't understand the question. I'm sorry.
Q: It's okay. Anytime you have a question about what I'm asking, just stop me --
A: Okay.
Q: -- and ask me.

A: Okay.
Q: And when you were willed some land in Hilton Place, you were also conveyed lot number one, block C, where Judson Smith now lives, weren't you?
A: That's correct.
Q: And were you involved in the sale of that to Judson Smith?
A: Involved in the sale?
Q: Yes. Did you --
A: I -- I went to the closing.
Q: Okay. Did you sign a deed in his behalf?
A: Yes.
Q: Okay. And did you receive money as a result of that sale?
A: Yes.
Q: About how much money did you receive?
A: Oh gosh. I don't remember. It was -- I know that we sold it for 25,000 and it was divided between, gosh, like nine of us.
Q: Okay. Do you remember it being $35,000?
A: $35,000?
Q: For his residence lot. Not the lake access lot.
A: Oh, okay. Yeah. Yeah. That's correct.

That's correct.
Q: Okay.
A: That's correct.
Q: Have you ever indicated to anyone, any of the owners of the lots that your father intended to deed the lake access lot as common property and give it to everybody?
A: Give it to everybody -- he was going to give it to a homeowner's association. He was going to deed it to a formed homeowner's association.
Q: And that was never formed, was it?
A: No.
Q: Okay.
A: Well, I thought it was, but apparently, the -- it never was chartered.
Q: Do you know who was in charge of forming that HOA?
A: I know that just like on the sheet of paper, I know Mark Kroske was the president and I do know that Sandra Ray is an attorney and I thought she was going to handle that.
Q: Let me show you what's marked as Exhibit Five already and ask if you recognize that survey dated July 14, 2010?
A: Yes.

Q: Have you seen it before?
A: Honestly, let's see -- this is Killian Point Circle. I guess this is -- I'm familiar with these lots just because of the other plat. I don't know if I have seen this actual document, but I do know where this is.
Q: Do you see where it says lake access lot at the bottom left?
A: Yes.
Q: And as of July 14, 2010, which is just before Judson bought the property --
A: Uh-huh (affirmative response).
Q: -- do you see where the surveyor diagramed a gravel road and concrete ramp on the property?
A: I see where it's on this plat, yes.
Q: Okay. Did it actually exist before Judson Smith bought the lake access lot?
A: I'm sorry. Would you repeat that?
Q: Sure. Did the gravel road and concrete ramp actually exist before you sold the land, the lake access lot?
A: Yes. There was a concrete -- yes. Yes.
Q: Okay. From the time you received via conveyance the lake access lot, who paid the property taxes?

A: Since my father died, the Colemans, meaning the -- the four children, Charles, all my brothers, and we halved it with the Stoudenmire heirs and we have been paying those taxes since my father's death, which was in 1991.

Q: And your mother paid those taxes from 1991 to her death, correct?

A: Yeah. Right. She -- that's correct. She was in --

Q: At some point, did the taxes get behind?

A: They were behind at some time, but they -- we always paid them.

Q: When they got behind, did anyone -- any of the lot owners at Hilton Place offer to chip in to help pay the taxes?

A: Absolutely not.

Q: Chrissie Campitella didn't?

A: No.

Q: Okay. Do you know Chrissie?

A: Yes. I do.

Q: Are you friends?

A: I couldn't say we're friends. She's a neighbor.

Q: Does she live near you?

A: She lives around the corner.

Q: Let me show you Exhibit Four, property disclosure, land, lots and acreage. Do you see that?
A: Is this what you're referring to?
Q: Yes, ma'am.
A: Okay.
Q: Have you seen a document like that before?
A: I believe so. Is this --
Q: Do you --
A: -- the ARA -- ARI -- isn't that who the Real Estate Agent was?
Q: I was going to get to that as a matter of fact.
A: Uh-huh (affirmative response).
Q: Yeah. Did someone at some point decide to sell the lake access lot?
A: Yes.
Q: Okay. How did that come about?
A: Well, we had paid taxes on it so many years and it was just overgrown and nobody seemed to, you know, want to do anything, so all the owners got together and -- all the heirs I should say, and we decided to sell it.
Q: Okay. Before you decided to sell it, did you send a notice to the homeowners in the area of the subdivision and indicate you were thinking

about selling the lot?
A: No.
Q: Why?
A: I didn't think it was necessary. Nobody took any initiative to even, you know, clean it up. Honestly, I haven't seen anybody down on that access lot in years, probably -- I mean, not for enjoying use.
Q: And you don't live next-door to it, do you?
A: No. I do not.
Q: And from your property you can't see it, can you?
A: No. Just like I said, in the fall I probably can.
Q: Okay. And who got together and decided to sell the lake access lot?
A: As I said my brothers and the Stoudenmire heirs.
Q: And so everybody was there?
A: Well, not in one room at the same time, but we called one another.
Q: Were there any writings that you sent between each other regarding selling?
A: Not to my knowledge, no.
Q: Any e-mails?

at Hilton Place Subdivision have the right to use the lake access lot?

A: Yes.

Q: Do you know for which purposes they may or may not use it?

A: To have a right to access Lake Murray through that lot. That -- I mean, that's what it was all intended for to start with.

Q: Wasn't it also intended to be common area, the lake access lot?

A: Common area and lake access in my opinion is the same.

Q: On page two, at the bottom left, is that Jake's signature?

A: Yes. Above the six. I don't know if that says 6/22/10, that is his signature.

Q: Okay. Wouldn't you agree that at least in 1992, the lake access lot was intended to be used for picnicking and grilling and kids playing?

A: It was intended if it had been cleaned up, yes.

Q: If you would, turn to Exhibit One? Do you recognize Plaintiff's Exhibit One?

A: Yes. I believe this is -- yes. I do.

Q: Okay. And let's look at Exhibit One and

contingency regarding potential liability, doesn't it?

A: Uh-huh (affirmative response). It does.

Q: Okay. Would you agree that the potential liability issue is whether or not other property owners have a legal right to use that lake access lot for other purposes?

A: Well, I guess that's what it means, yes. Uh-huh (affirmative response).

Q: Is that what you thought at the time it was signed?

A: Yes.

Q: As we sit here now, do you wish you hadn't signed it or sold it?

A: Absolutely not.

Q: Okay.

A: Because it looks 100 percent better that it ever has.

Q: Do you wish that you had notified the property owners that it was up for sale or that you guys intended to sell it before it sold?

MR. ANDREWS: Objection.

A: Not necessarily.

Q: Why?

A: Nobody showed an interest in that lot ever.

When I was trying to form that homeowner's association, or -- or you know, be a part of it, it -- it was -- it was formed and we talked, but when the people found out that they were going to have to pay taxes, everything dropped and nobody had ever, you know, wanted to take it on, so in, you know, 20, 25 years, nobody showed an interest and it was overgrown.

Q: Have you seen the Plaintiff's interrogatory responses where they indicate they used it on a regular basis?

MR. ANDREWS: Objection.

A: Can you repeat that?

Q: Sure. Have you seen the Plaintiff's interrogatory responses?

A: Yes.

Q: Okay. Do you know whether or not the Plaintiffs in whole or in part used it to launch their boats?

A: I don't know of anyone.

Q: Did you ever ask?

A: Did I ever ask?

Q: Yeah. Before you sold the lot?

A: No. I -- to my knowledge nobody ever used it.

Q: Okay. And before you sold it, did you or any of

Q: Have you been to law school?
A: No. I have not.
Q: Do you have any legal training?
A: No. I do not.
Q: Do you agree that the lake access lot is bound by the restrictions on book 611, page 232?
A: Yes.
Q: Let's look at number three, talking about restrictions, it says no building, barn, outbuilding, fence, garage, or structure of any kind or alterations or additions thereto shall be erected, placed, or made on any lot hereby conveyed. Do you see that?
A: Yes. I do.
Q: Wouldn't you agree that Judson Smith is in violations of paragraph three?
MR. ANDREWS: Objection.
A: I think this has got to do with any other lot, not the lake access.
Q: Show me where it says that in there?
A: It doesn't.
Q: It says any lot, doesn't it?
A: It says any kind of -- yes. It does.
Q: And in 1983, when these restrictions went into effect, the lake access was one of the lots,

correct?
A: That's --
MR. ANDREWS: Objection.
A: -- well, it was the -- it was always on the plat as lake access.
Q: Always?
A: It was on the plat as the lake access.
Q: Have you seen the plats before 1983?
A: Well, I guess -- I guess not.
Q: Do you know whether or not it was originally a numbered lot?
A: I never knew that it was a numbered lot.
Q: On your lot today, where you live in Hilton Place Subdivision, do you have the right to build a barn?
A: No.
Q: To construct an outbuilding?
A: No.
Q: A fence?
A: No.
Q: A garage?
A: No.
Q: I'll show you Plaintiff's Exhibit Nine and ask if you recognize document dated 1/25/2011?
A: Yes. I do recognize it.

Q: Did you see it in January 2011?
A: There or about. I -- I know that Ken Mathis contacted me and he didn't know -- he wanted to know where he could leave this letter and he left it on my front porch.
Q: What happened next regarding the letter?
A: I showed it to my brothers and that --
Q: Did you show it to Charles S. Coleman, Jr.?
A: Yes. I did.
Q: He threw a fit?
A: Throw a fit -- I -- no, but I will tell you that Ken Mathis was, you know, harassing us.
Q: And how did Ken Mathis harass you?
A: Well, phone calls asking me what I was going to do about it and he, you know, constantly called, tried to contact my husband, tried to -- he kept on trying to contact me. Harassing phone calls.
Q: Okay. And so when he called you, you'd pick up?
A: Certainly.
Q: I don't know. I got to ask the question?
A: Oh, certainly.
Q: Calls on your -- would he call you on your cell phone?

A: My house phone.
Q: Okay. Could you see who calls when they call your house phone?
A: I don't think I had caller ID at the time.
Q: Okay.
A: Probably not.
Q: Okay. And was he ugly to you?
A: He -- not at first, but he did get very demanding, wanting to know what I was going to do about it.
Q: And what did you tell him you would do about it?
A: I told him there was nothing I could do about it that the lot was sold.
Q: Did you ever hear any conversations between Charles Junior and Ken Mathis?
A: He called our office and he talked to Charlie.
Q: Did you overhear the phone call?
A: I overhead one side of it and, you know, my brother stated at that time that it was nothing that we were going -- you know, we could do about it, that it was sold and that he did not appreciate the way he was talking to me about it and coming on my property, screaming at me, and that was the end of that conversation.

Q: Did Ken Mathis come onto your property and scream at you?
A: Yes. He did.
Q: How many times?
A: Once.
Q: In what month and year?
A: Now, I cannot answer that. I guess, after this letter. It had to have been sometime in 2011.
Q: And what was he complaining about?
A: He said that he did not like that we sold the access to Judd Smith.
Q: Let me ask you this, once you and the sellers received the letter dated January 25, 2011 --
A: Uh-huh (affirmative response).
Q: -- did you go to an attorney and say, by the way what's up with this? What are our rights?
A: No. I know we did not, but at the closing of this lot, that closing attorney said that everything was fine and I --
Q: Everything was fine meaning what, meaning all the numbers worked out?
A: Well, about this -- I think we asked him and so did Judd.
Q: And what did you ask?
A: If, you know, were we going to have any

questions about the lake access?
Q: Or do you mean any problems?
A: Yeah.
Q: And he said you'd have no problems?
MR. ANDREWS: Objection.
A: He said he didn't see -- or I was -- I was, you know, very confident in I was not doing the wrong thing at that time.
Q: Well, if someone's deed says in 1990 that they have full use and enjoyment of a lake access lot --
A: Uh-huh (affirmative response).
Q: -- if you'd have known it then, would you've made the same decisions?
A: I would make the same decision today. Yes.
Q: Wouldn't you agree that for the Hilton Place lot owners who -- who don't abut the lake that having a lake access lot makes their property more valuable?
MR. ANDREWS: Objection.
A: I disagree. Not the lake access as it was. Nobody showed an interest. Nobody showed an interest. Nobody at -- you know, cleaned it up and, you know, we had been paying taxes on something all those years and nobody showed an

interest. Not even a phone call.
Q: Whose duty was it to clean it up?
A: I would -- I would hope that the homeowners.
Q: Well, your dad intended to form a homeowner's association, correct?
A: That's right and I -- I thought we did.
Q: And that never happened, did it?
A: I guess it didn't, but I thought it did. There's minutes to a homeowner's meeting.
Q: Okay. Do you have any more copies of minutes for meetings?
A: No. I don't.
Q: Do you know who might have those?
A: I would imagine -- I -- I don't know who did those minutes. I would imagine Sandra Ray.
Q: Okay.
A: I was not an officer in that homeowner's association.
Q: Okay. So because a homeowner's association wasn't formed, wouldn't you agree that the sellers had the obligation to keep the lot clean?
MR. ANDREWS: Objection.
A: No.
Q: The owners wouldn't have the obligation to

response). That's --
Q: And the sales price was $25,000, correct?
A: That's correct.
Q: Did you approve the sales price at $25,000?
A: Yes. I did.
Q: And how did you go through that process of approving $25,000?
A: Our brothers all got together and the Stoudenmires and we approved it.
Q: Are any of your brothers friends with Judson Smith?
A: Any of my brothers' friends -- I mean, we know him through these sales, but I mean, not long-life friends, no.
Q: Do you ever have a conversation with Chrissie Campitella regarding a deed correction?
A: Chrissie Campitella called me and asked me if I would put a -- a statement in one of her deeds. Now this has been years ago and I said our attorney is not responsible for that. It was her closing attorney that should have done that.
Q: Did the Parham Law Firm contact you regarding having a deed correction done?
A: I'm not familiar with that name. Now -- I'm

not --

Q: Did any attorneys contact you regarding correcting the deed --

A: You know -- I -- I --

Q: -- for Ms. Campitella?

A: Somewhat, but I'm not very clear -- but if I did, I told them what I knew about it and the only thing that I did know about it is in a lot of the original owner's deeds, it had a one sentence saying that the owners had a nonexclusive right to the access -- through the lake access to Lake Murray. A nonexclusive right. That's all I knew.

Q: Nonexclusive, meaning everybody gets to use it?

A: Nonexclusive. I think it just walking across the property to -- to get to the lake. That's what I was, you know, told. Maybe it's a turn of words. I don't know.

Q: Sure. And look at Elizabeth Snow's deed, for example --

A: I've never seen that.

Q: Okay. Wouldn't you agree that this deed doesn't limit her to simply walking across the property?

A: Use of enjoyment. Uh-huh (affirmative

response). I read that.
Q: Okay. Do you agree with me?
A: Yes.
Q: As a matter of fact, have you seen the original deeds for each of the lots?
A: No. Not each of the lots. No. I have not.
Q: Okay. Did you tell Chrissie Campitella that your brothers would not allow you to correct her deed?
A: I don't remember.
Q: Did you give her any reason that you recall?
A: That -- that's correct. I mean, I couldn't do it. I wasn't a lawyer. I told her to contact her attorney.
Q: Did you have any conversations with Chrissie Campitella asking -- or regarding forming an HOA?
A: Maybe in the past. Yes. Now she was not an original owner when this homeowners was formed or -- but she never -- she might've talked about it, but she never did anything about it. I told her that, you know, she was going to have to do that, not me. I had already done it once.
Q: Did you ever have anything to do with advising

A: It's on my right, but it's one street over, but it's on the right. Yes. I do.
Q: So as you come home each day, do you notice the lake access lot?
A: Sometimes if I look down there, but no. I -- I don't, you know, but I know it was overgrown. I do know that.
Q: Do you know if Jake Coleman has ever worked with Judson Smith?
A: No. Not to my knowledge.
Q: Did you first meet Mr. Smith and Ms. Bell as a result of the sale in 2008?
A: Yes. At the closing.
Q: Okay. Let me get my questions out each time. Did you or any of the sellers inform Judson Smith or Chrissie Campitella or Ms. Bell that they could build structures on the lot?
A: Yes.
Q: Okay. And who did you tell that to? Did you say it or somebody else?
A: I guess it was at closing.
Q: Okay. And what happened?
A: I -- maybe they were just -- I -- I really don't remember. I don't -- they didn't ask permission, if that's what you were referring

to.

Q: At closing, did they indicate they were going to build something on the lake access lot?

A: I know they were going to clean it up. I knew they were going to clean it up and why would they buy it if they weren't going to build. It -- it's just a dock and a gazebo.

Q: Was a dock and a gazebo both there when they purchased it?

A: It was nothing but a boat ramp.

Q: And was there a dock there?

A: No. It was not.

Q: Had you gone on to the property to check to see if there was a dock there?

A: Did I go to the property?

Q: Yeah.

A: I didn't physically walk down there, no.

Q: Okay. So if the facts in this case show you there was a dock down there, would that surprise you?

A: I didn't know it was a dock down there. We didn't build a dock. It was a -- a boat ramp.

Q: Boat ramp meaning a concrete ramp itself?

A: Yes.

Q: Okay. So at closing, just to get it clear for

the jury, did you or any of the sellers indicate to the buyers of the lake access lot that they could build something on the lot?

A: Maybe -- yes. Maybe we did tell them that they could, yes.

Q: Okay. And what did you tell them they could build?

A: I -- I didn't specify what they could build.

Q: Okay.

A: I -- I figured he would go through DHEC and get the right, you know, permits and approvals.

MR. ANDREWS: You want to take a break or --

MR. SMITH: No. I'm done, unless you have questions?

MS. FREEMAN - EXAMINATION BY MR. ANDREWS:

Q: Did you participate in setting out the development in any way?

A: No. I did not.

Q: Okay. So was it your father and Mr. Stoudenmire who would have -- who would have had the restrictions drawn up?

A: That's correct.

Q: Do you know what your father and what Mr. Stoudenmire meant by the restrictions, except for reading them?

A: That's right. That's correct.
Q: I mean, all -- all you know is by reading them. You -- you don't know exactly what they intended?
A: No.
Q: Okay. Could someone have used the ramp or the gravel road whenever you -- whenever y'all sold the property?
A: I don't believe so. It was too shallow.
Q: The water was too shallow?
A: The water was too shallow to launch a boat.
Q: And what about -- I think you mentioned the property was overgrown?
A: Yes. It was very overgrown. I mean, scrub oaks, you know, I don't even think they could get -- they might could've gotten a truck down there, but that's it.
Q: Okay. Thank you. That's all I have.
MR. SMITH: I have nothing further. Thank you so much for your testimony.
A: Thank you. Uh-huh (affirmative response).
(There being no further questions, the deposition concluded at 10:51 a.m.)

HILTON PLACE COMMUNITY ASSOCIATION

The Hilton Place Homeowner's Association has been formed. So far the Association includes the following members:

Sissy and Tommy Freeman
Jake and Susie Coleman
Danny and Teresa Wilds
Mark and Cindy Kroske
Danny and Virginia Lee - No
Val and Sandra Ray
Tom and Lettie Gilligan
Steve and Linda Holleman

Although everyone has not formally joined the Association, we have received positive interest from 13 out of 24 families in the Hilton Place community. If you would like to join our association or are interesting in obtaining more information about our association, please attend our next organizational meeting.

The Association has elected the following members as Officers:

Mark Kroske-President
Virginia Lee-Vice President
Sandra Ray-Secretary Treasurer

The Association voted to incorporate to limit any liability to the Corporation as opposed to individual members. We are in the process of forming a nonprofit corporation. The Articles of Incorporation and necessary paperwork will be sent to the Secretary of State before the next meeting. The Hilton Place Homeowner's Association also voted to open a checking account at Lexington State Bank after the association has received its charter. Each member agreed to contribute $13.00 to cover the expenses of incorporating the Association.

The goal at this point is to use our own resources to clean the lake access area. We will then make plans to improve the area as our resources allow. Members have expressed an interest in improving the area to make it safe for swimming and building a play area and picnic area for the families. Members also plan to provide some landscaping. Indian Fork and Cedar Cove have very nice common areas. Please visit these areas and see what other communities have accomplished. Lettie Gilligan will take pictures of these areas for discussion at our next meeting.

Our Association will also plan social activities and address problems and concerns of the members of the Association.

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EXHIBIT 16

A Bylaw Subcommittee was formed which will be submitting proposed bylaws at the next meeting. This subcommittee consists of Sissy Freeman, Virginia Lee and Sandra Ray. The proposed bylaws will be discussed at the October meeting. They will then be distributed at this meeting to be voted on at the November meeting.

The Association has planned a work day to clean the common area on Saturday October 3, 1992 from 10:00 to 4:00 pm. The fence has been removed and plans are being now being made to deed this property to the Association. Child care will be provided so that the adults can work. If you plan to attend, please call Mark Kroske. He will be coordinating the first clean up day. We need both manpower and yard equipment.

Cold drinks will be provided and someone will be picking up chicken for lunch. Please plan to contribute $3:00 per person for the lunch.

The next Homeowner's Association will meet on October 14, 1992 at 7:00 pm at Val and Sandra Ray's home located at 120 Killian Point Circle. If childcare is needed Julie Freeman and Kitty Coleman will be available to watch children at the Coleman Home located at 149 Killian Point Circle. The babysitting for contributions to be made those utilizing their services.

The Association voted to meet monthly on the second Monday of every month at 7:00 pm at the home of one our members.

We are preparing a list of teenagers interested in babysitting. If your teenage is interested in being included on our list please have your teenager call Sandra Ray.

Children congregate at the intersection of Hilton Point Road and Hilton Point Circle. Please drive slowly and carefully as you approach this intersection. Please also remind all drivers in your household. It is appreciated by your neighbors.

MEMBERS

Jake and Susie Coleman
149 Killian Point
Chapin, SC 29036
345-1287
Children:
Kitty-13 years
Jacob-9 years

Sissy and Tommy Freeman
205 Killian Point Road
Chapin, SC 29036
345-9978
Children:
Julie-9 years
Will-3 years

Tom and Lettie Gilligan
142 Killian Point Road
Chapin, SC 29063
345-9388
Children:
Jason-9 years
Meggan-8 years
Patrick-5 years

Steve and Linda Holleman
218 Killian Point Road
Chapin, SC 29036
345-3117
Children:
Amy-16 years
Nathan-15 years

Mark and Cindy Kroske
117 Big Thursday Court
Chapin, SC
345-0267
Children:
Jennifer-7 1/2 years
Michelle-4 1/2 years

Danny and Virginia Lee
103 Killian Point Circle
Chapin, SC 29036
345-9880
Children:
Christopher-9 years
Lauren-3 years

Val and Sandra Ray
120 Killian Point Circle
Chapin, SC 29063
345-7037
Children:
Carrie-4 1/2 years

Danny and Teresa Wilds
121 Big Thursday
Chapin, SC 29063
345-0900
Children:
Charlie-2 years

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	11th JUDICIAL CIRCUIT
	)	
Elizabeth L. Snow, et al,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 2011-CP-32-2968
	)	
Judson P. Smith, et al,	)	
	)	
Defendants.	)	
	)	

PLAINTIFFS' POST-TRIAL MEMORANDUM OF LAW

COME NOW Plaintiffs, by and through their undersigned counsel, and file this Post-Trial Memorandum of Law as follows:

I. TIME LINE

10-03-83 The September 19, 1983 subdivision Plat (hereinafter "The Plat") identifies a subdivided and platted lot referred to as "Lake Access" but does not show any path, road or anything else as limiting its scope (Pl. Ex. 3)

10-12-83 The Original Restrictions – Hilton Place - are stamped filed and state, "The covenants, conditions and restrictions are hereby imposed upon all those lots shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983 . . ." (Pl. Ex. 4, Para. 12))

04-04-90 The sales contract between the Original Developer, Charles S. Coleman, and Plaintiff Snow is signed and states, "Lake Access Lot is available for purchaser's use at time of closing." (Pl. Ex. 1)

04-26-90 Deed from Original Developer to Plaintiff Snow which states, "Also conveyed herewith is an easement for the use and enjoyment by the lot owner and the lot owner's immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be appurtenant to the land herein conveyed." (Pl. Ex. 2)

05-06-92 Deed to Kelly stating that "deed is subject to restrictions recorded Book 611 Page 232." (Pl. Ex. 13)

10-00-92 Hilton Place Assoc. Minutes with plans to improve the Lake Access Lot for swimming and building a play area and a picnic area and setting a "work day to clean the common area on Saturday, October 3, 1992 . . . plans are now being made to deed this property to the Association." (Pl. Ex. 18A, p. 2) Members include the Grantor-Defendants in this case, Valiska "Sissy" Freeman and Jake Coleman. (Pl. Ex. 18A p. 3)

09-18-97 Deed to Plaintiffs Campitella stating, "This conveyance is subject to all easements, restrictions and conditions appearing of record affecting the above-described property." (Pl. Ex. 22)

02-04-99 Confirmatory Amendments to Hilton Place Restrictions. (Def. Ex. 11)

01-05-10 MLS listing by Grantors' agent for Lake Access Lot stating, "No septic, no dock permit, not buildable." (Pl. Ex. 23)

06-18-10 Sales contract to Defendant Smith stating, "Buyer shall have the right to cancel this agreement without penalty (to include return of earnest money) by June 30,

	2010, after consultation with buyer's attorney and/or insurance carrier regarding potential liability." (Pl. Ex. 17 p. 4)
00-00-00	Smith admits that he did not seek legal advice regarding "potential liability" (Tran. P. 219)
00-00-00	Grantor-Defendants admit that the "potential liability" is whether any building could occur on the Lake Access Lot (Tran. Pp. 146-47)
07-14-10	Defendant Smith's survey of the Lake Access Lot which does not show any easement limited to the boat ramp or limited to any location. (Pl. Ex. 21)
07-29-10	Deed to Defendants Smith and Brabham conveying Lake Access Lot for $25,000 and stating "This conveyance is made subject to easements, conditions and restrictions of record affecting subject property." (Pl. Ex. 16)
00-00-00	The Lake Access Lot had always been unimproved until after Smith and Brabham purchased it. (Tran. P. 37)
01-25-11	Plaintiffs' note to Grantor Defendants objecting to outbuilding, deck and dock on the Lake Access Lot – which had just been built. (Pl. Ex. 18)
00-00-00	Smith admits that he did not obtain a permit to build the gazebo or the Outhouse and they are not constructed by a licensed builder (Trans. P. 220)
02-15-11	SCE&G electricity permit issued for Lake Access Lot after Plaintiffs complain about building and structures. (Def. Ex. 3)
08-15-11	DHEC septic tank permit issued eight months after Plaintiffs complain about the construction of the Outhouse. (Def. Ex. 4)

II. ARGUMENTS AND AUTHORITIES

A. There Is At Least An Easement Covering The Entire Lake Access Lot.

An easement is a right to use the land of another for a specific purpose. Steele v. Williams, 204 S.C. 124, 132, 28 S.E.2d 644, 647 (1944). This right of way may arise by grant, from necessity, by prescription, or by implication by prior use. Boyd v. Bellsouth Tel. Tel. Co., 369 S.C. 410, 416, 633 S.E.2d 136, 139 (2006). In this case, there is at least both an easement by grant and an easement by implication.

1. Easement over the Entire Lot by Grant.

There is only one document in this case signed by the Original Grantor which refers to the Lake Access Lot:

> **Also conveyed herewith is an easement for the use and enjoyment by the lot owner and the lot owner's immediate family to the Lake Access Lot shown on the recorded subdivision lot, said easement to be appurtenant to the land herein conveyed.**

(P. Ex. 2.) (emphasis added) "A grant of an easement is to be construed in accordance with the rules applied to deeds and other written instruments." Binkley v. Rabon Creek Watershed Conservation Dis. Of Fountain Inn, 348 S.C. 58, 71, 558 S.E.2d 902, 909 (Ct.App. 2001). "In construing a deed, the intention of the grantor must be ascertained and effectuated, unless that intention contravenes some well settled rule of law or public policy. In determining the grantor's intent, the deed must be construed as a whole and effect given to every part if it can be done consistently with the law. The intention of the grantor must be found within the four corners of the deed."

Windham v. Riddle, 381 S.C. 192, 201, 672 S.E.2d 578, 582-83 (2009). Because this express grant of an easement states that it is "for the use and enjoyment by the lot owner and the lot owner's immediate family to the Lake Access Lot" and does not contain any limitations, it is not ambiguous and it was clearly the original grantor's intent to convey an easement for the use of the entire Lake Access Lot and not for any specific portion of the lot. Further, because The Plat does not show that there is an easement of limited scope on the Lake Access Lot, because all of the Plaintiffs' deeds refer to The Plat and because "where a deed describes land as is shown as a certain plat, such becomes a part of the deed," Carolina Land Co. v. Bland, 265 S.C. 98, 105, 217 S.E.2d 16, 19 (1975), all of the Plaintiffs' deeds contain by implication this same easement for the Lake Access Lot.

2. Easement of the Entire Lot by Implication/General Plan.

"Easements may be implied by necessity, by prior use, from map or boundary references, or from a general plan." Boyd v. Bellsouth Tel. Tel. Co., Inc., 369 S.C. 410, 633 S.E.2d 136, 139 (2006). "The intent of the parties, as shown by all the facts and circumstances under which a conveyance was made, may give rise to an easement by implication." Id. at. 139. In this case, the clear intention of all parties as indicated by the Plat and by the general plan of the neighborhood was that the Lake Access Lot be used in its entirety by all lot owners:

-The Plat shows the Lake Access Lot as a whole and does not indicate that the easement is any way limited to a certain portion of the Lake Access Lot;

-Smith's survey that was performed less than a month before he and Brabham closed on the Lake Access Lot does not show that the easement is in any way limited to a geographic area on the Lake Access Lot (Pl. Ex. 21);

-Defendant Sissy Coleman admits that it was the original grantor's (her deceased father) intent that the Lake Access Lot be used as a common area for picnicking, swimming and similar activities and that it was the grantor's intention to convey the Lake Access Lot to the lot owners (Trans. 140-41);

-Snow's deed states that the easement is for the Lake Access Lot and does not limit the easement to any portion thereof;

-Since at least the 1990s, the Plaintiffs have used the Lake Access Lot to swim, picnic, snow ski, park their boat trailers, launch their boats and generally use it as a common area;

-Since The Plat was recorded in 1983, there have been no improvements or building on the Lake Access Lot until after Smith and Brabham purchased it; and

-There is absolutely no evidence, anywhere, that the easement on the Lake Access Lot is limited to the 10 foot wide boat ramp.

The determination of the scope of an easement is a question of equity. Hardy v. Aiken, 369 S.C. 160, 165, 631 S.E.2d 539, 541 (2006). "The general rule is that the character of an express easement is determined by the nature of the right and the intention of the parties creating it." Plott v. Justin Enters., 374 S.C. 504, 514, 649 S.E.2d 92, 96 (Ct.App. 2007). Because all of the facts in this case show that there is nothing limiting the scope of the easement to the boat ramp and the facts show that use of the Lake Access Lot has extended over the entire area and that it was intended by the original grantor at the time of severance to be used as a common area for all lot owners, all of the Plaintiffs at least have an easement by implication for the entire lot.

B. Smith and Brabham Have No Greater Rights In the Lake Access Lot than the Plaintiffs.

Smith and Brabham claim that because they purchased the Lake Access Lot from the Grantor-Defendants, they have the right to exclude all others from the Lot except for ingress and egress to the lake via the 10 foot wide boat ramp. It is well settled law that "one claiming title by deed has no greater title than the original grantor in the chain of title upon which he relies." Hoogenboom v. City of Beaufort, 315 S.C. 306, 313, 433 S.E.2d 875, 880 (Ct.App. 1992); see also Belue v. Fetner, 251 S.C. 600, 606, 164 S.E.2d 753, 755 (1968) (holding a deed cannot convey an interest the grantor does not have). Here, because there was in existence an easement over the entire Lake Access Lot for the Plaintiffs' use and enjoyment at the time the Grantor-Defendants conveyed the Lake Access Lot to Smith and Brabham, Smith and Brabham have no greater rights than the Plaintiffs to use the Lake Access Lot.

C. Smith and Brabham Cannot Build on the Lake Access Lot.

1. Original Restrictions.

The 1983 original Restrictions state:

-No lot or property conveyed hereunder shall be used for any other than private residential purposes of one family, except by and with written consent and approval of the Grantors;

-No building, barn, outbuilding, fence, garage or structure of any kind or alterations or additions thereto shall be erected, placed or made on any lot hereby conveyed;

-No trailer, tent, shack or temporary structure shall be erected, kept, had or allowed at any time on any lot hereby conveyed; and

-The covenants, conditions and restrictions are hereby imposed upon all those lots

shown on a plat prepared by Johnny T. Johnson O& Assoc., Inc., dated September 19, 1983;

(emphasis added). Because these Restrictions were recorded in the RMC office for Lexington County, Defendants Smith and Brabham had constructive notice of these Restrictions; more importantly, because Defendants Smith and Brabham purchased a residential lot in this same subdivision in 2008 (Pl. Ex. 15) and at their 2008 closing they actually reviewed these Restrictions (Tr. P. 95), they had actual notice that no structures such as an Outhouse, a gazebo., decking or a fire pit could be built on the Lake Access Lot. Therefore, without more (see below), the Restrictions prohibited both the Grantor-Defendants and Smith and Brabham from building on the Lake Access Lot.

2. 1999 Modification.

After three of the Plaintiffs purchased their lots, the 1999 Confirmatory Amendments were recorded in the RMC office and state:

"WHEREAS, paragraph 12 of the [original] Restrictions intended to impose the Restrictions on the "lots" shown on a plat prepared by Johnny T. Johnson & Assoc., Inc., dated September 19, 1983, later revised and recorded in the Lexington County RMC in Plat Book 194-G at page 60";

WHEREAS the aforesaid Plat Book 194-G at page 60 also depicted certain other real property owned by Charles S. Coleman and E.L. Stoudenmire which other real property was not and is not a part of Hilton Place Subdivision and which other real property was not divided into "lots" at the time of the recording of the [original] Restrictions; and

. . .

1. The aforementioned Restrictions (Book 611 Page 232) as heretofore modified are hereby amended to amend paragraph 12 to read as follows: "Notwithstanding anything contained herein to the contrary, the covenants, conditions and restrictions are hereby imposed only upon those individually platted and numbered lots shown on a plat prepared by Johnny T. Johnson & Assoc., dated September 19, 1983, later revised, and recorded in the Office of the RMC for Lexington County in Plat Book 194-G at page 60 those lots being Lots 1-16 Block "A", Lots 1-9 Block "B", Lots 1-6 Block "C" and Lots 1-2 Block "D". Nothing contained herein shall be construed to impose any covenants, conditions or restrictions on any other property shown on the aforesaid plat."

(Def. Ex. 11) (emphasis added)

This "Modification" has no effect on the restrictions for the Lake Access Lot for four reasons. First, when construing covenants and restrictions it is the goal of the court to ascertain the grantor's intent. Erkes v. Kasparek, 303 S.C. 70, 399 S.E.2d 6 (Ct.App. 1990) (restrictive covenants are contractual in nature; the cardinal rule of construction is to ascertain and give effect to the intention of the Parties.) Here, even a cursory review of The Plat shows not only lots of land for Hilton Place subdivision, but it also contains 47.55 acres of land that is no "lot-ted" and is not a part of the subdivision. Thus, on page 1 of the Modifications where the grantors state that it was the original intent to impose "Restrictions on the 'lots' shown on [The] [P]lat," the clear intent of these Modifications is to ensure that the Restrictions apply only to the "lots" that have been platted for the subdivision and not to the 47.55 acres of land that has not been platted or subdivided. Therefore, the fact that the grantors failed to include the

"Lake Access Lot" from the list in Para. 12 has no bearing on their intent to continue the Restrictions on all "lots" of Hilton Place Subdivision as set forth on page 1.

Second, the Modifications are ambiguous because it indicates that the entire subdivision was intended to be restricted but not the 47.55 acre tract but fails to mention the Lake Access Lot. It is well-settled law that contracts, such as the Modifications, must be construed against the drafter in the case of an ambiguity. Davis v. KB Home of South Carolina, Inc., 394 S.C. 116, 713 S.E.2d 799 (Ct.App. 2011). Here, because the grantors drafted the Modifications and because it states that the lots in the subdivision itself are still restricted, the Modifications must be construed as continuing to restrict the Lake Access Lot.

Third, because a covenant and restriction is in fact a contract, and because at least three of the Plaintiffs purchased their lots before the Modification was recorded and they did not consent to the Modifications nor were they given notice that such Modifications were going to be created, they cannot be bound by Modifications to which there no agreement and about which they had no notice.

Fourth, it is well-settled law that a developer/grantor does not have an unfettered right to modify covenants and restrictions, but has a fiduciary duty to the lot owners to act in their best interest. Concerned Dunes West Residents, Inc. v. Georgia=Pacific Corp., 349 S.C. 251, 562 S.E.2d 633 (2002) (developers owe lot owners a fiduciary duty to act in their utmost good); Goddard v. Fairways Dev. Gen. P'ship, 310 S.C. 408, 426 S.E.2d 828 (Ct.App. 1993) (developer owes lot owners a fiduciary duty of "utmost good faith"). Thus, any modifications by the developers cannot be unreasonable and must be in the best interest of the Plaintiffs. Accord Queen's Grant II Horizontal Property Regime v. Greenwood, 368 S.C. 342, 628 S.E.2d 902

(Ct.App. 2006). Because construing the Modifications to somehow remove the Lake Access Lot from the original Restrictions would harm both the lot owners and the entire scheme of the neighborhood (meaning the Lake Lot is not restricted by anything and even a commercial enterprise, pawn shop or strip bar could be built), the Modifications clearly cannot validly remove the Lake Access Lot from the original Restrictions.

Therefore, neither Smith nor Brabham nor anyone else can build anything – anything at all - on the Lake Access Lot because of the original Restrictions. This fact situation is not a case where an easement can be "relocated" because the Lake Access Lot easement encompasses the entire lot, so the common analysis of dominant-servient estates does not apply. (Where an easement is appurtenant to the dominant estates and not a mere personal privilege, as here, the "proper analysis is to examine whether the relocation increased the burden on the dominant estate, not the servient estate as alleged by Defendants in this case. Sheppard v. Justin Enter., 373 S.C. 518, 646 S.E.2d 177 (Ct.App. 2007)). Thus there is no avenue for the Smith or Brabham to argue that the easement or the structure can be relocated – the Plaintiffs are entitled to use and enjoyment of the entire lot as indicated by the express grant by the original grantor.

C. Equity Favors the Plaintiffs.

In Buffington v. T.O.E., 383 S.C. 388, 680 S.E.2d 289 (2009), the defendant car dealership admitted that its plan to use the subdivision lots for parking violated the restrictions on the land itself which were limited to residential use, but argued that it would be inequitable to enforce the restrictions because it had spent more than $700,000.00 to acquire the land and make improvements. Because the defendant was on notice of the covenants when it purchased the

property, the Supreme Court of South Carolina held that equity could not favor the defendant because, otherwise, any defendant could defeat a restriction by spending a significant amount of money to improve the land. The same is true in this case. Defendants Smith and Brabham were on actual and constructive notice of the Restrictions before they purchased the Lake Access Lot and, according to our Supreme Court, cannot now claim that because they spent a large sum to improve the land that they are entitled to the benefit of their investment. Thus their expense of funds plays no role in this matter and they clearly assumed the risk of their actions.

Similarly, neither Smith nor Brabham communicated with the Plaintiffs regarding their intent to build on the land, neither Smith nor Brabham applied for building permits before actually beginning construction and neither Smith nor Brabham asked Plaintiffs' permission to build on the Lake Access Lot. Thus both Smith and Brabham assumed any and all risk, as between them and Plaintiffs, regarding their decision to build on the Lake Access Lot.

D. Common Area/Common Elements.

The developers did not prepare a master deed for this subdivision and there is no indication on The Plat that the Lake Access Lot was intended to be a common area. In a nutshell, based on the evidence adduced at trial there is no common law or statutory law that would cause the Lake Access Lot to be found to be a common area or anything other than a lot of land which is subject to an easement for its entire area.

E. Remedies.

"A court does not automatically issue a mandatory injunction once it finds a restrictive covenant has been violated. The court must balance the equities between the parties; and if

the harm to the defendant outweighs the plaintiffs' benefit, no relief will be granted." Sea Pines Plantation Company v. Wells, 294 S.C. 266, 363 S.E.2d 891, 896 (1987). A court will, however, strive to issue"effective relief" in situations involving restrictive covenants. Id.

Defendants Smith and Brabham contend that Plaintiffs and the other lot owners can use the Lake Access Lot only for ingress and egress to the lake via the gravel/paved boat ramp and that the Plaintiffs are not allowed to use the Lake Access Lot to swim, picnic, gather with friends, throw a party or perform any actions other than launch a boat. Clearly the only effective relief on this issue is issuing a mandatory injunction and a finding which allows all Plaintiffs to use and enjoy the entire Lake Access Lot (including its improvements should the Court not order all of them removed) as intended by the original grantor. The other issue is whether to order Smith and Brabham to remove the structures that violate the Restrictions (Outhouse, fire pit, gazebo, deck, walkway and associated structures). Because Smith and Brabham knew before they purchased the Lake Access Lot that such structures were prohibited and they failed to take any steps to discuss the issue with an attorney, ordering them to remove the violating structures would be appropriate even though it would cause them economic hardship. Id. ("Even though the injunctive remedy may cause some economic hardship . . . injunctions have routinely been granted in such instances.")

In their Complaint, Plaintiffs also requested that this Court order the Lake Access Lot be deeded-back to the Grantor-Defendants and that they be ordered to maintain the Lake Access Lot as intended, return it to its pre-sales shape and provided to Plaintiffs their rights. Interestingly, however, neither Smith nor Brabham cross-claimed against the Grantor-Defendants even though the Grantor-Defendants testified that they conveyed the Lake Access

Lot only because they were weary of paying property taxes (Trans. Pp. 135-36, 144) and the Grantor-Defendants informed Smith and Brabham at closing that Smith and Brabham were free to build on the Lake Access Lot (notwithstanding the Restrictions). (Trans. P. 147) So, as between the two sets of Defendants, who should bear the burden of their wrongful acts? The Grantor-Defendants who breached their fiduciary duties to the Plaintiffs or the Buyer-Defendants who had actual knowledge of the Restrictions and intentionally chose not to seek legal counsel before building?

IV. CONCLUSION

The lynchpin is Snow's deed: it is clear and not ambiguous, the original grantor indicates that there is an easement for the Lake Access Lot which is to be enjoyed. Arguendo, if this Court disagrees and finds that the original grantor's intent was not clear, then the fact that the Lake Access Lot has always been unimproved (until the subject purchase), that Defendant Sissy Coleman admits it was her father's intent that it become a common area for sue by all, the Plaintiffs' unfettered use of the property for decades for recreational activities and the fact that there is no evidence which limits the easement to only the boat ramp – all weigh heavily in favor of finding that the Plaintiffs have an easement for all recreational purposes over the entirety of the Lake Access Lot. For these reasons, Plaintiffs request that this Court ORDER Defendants to immediately remove their improvements from the Lake Access Lot and find that it's entire area is subject to a perpetual easement for the Plaintiffs' unfettered access, use and enjoyment.

September 23, 2013

Thomas Bailey Smith, Esq.
Plaintiffs' Attorney

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas/Master-In-Equity

James O. Spence, Master-In-Equity

Case No. 2011-CP-32-2968

Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, Chrissie E. Campitella, Henry D. Gehlken, Sr., Vivian S. Gehlken, Kenneth W. Kelly, Anita B. Kelly, Stephen F. Linder, Sr., Jackie Bower Linder, and Kathry A. McDaniel ..... Appellants,

v.

Judson P. Smith, Christy Brabham Bell, Charles S. Coleman, Jr., J. Thomas Coleman, Jacob C. Coleman, Valiska C. Freeman, George Arthur Stoudenmire as trustee for the benefit of William E. Stoudenmire, Linda B. Stoudenmire, Stacey S. Dershaw f/k/a Stacey Michelle Stoudenmire and Laura Brittany Stoudenmire, and Trust "B" Created by U. W. Everett L. Stoudenmire and Valiska F. Coleman ..... Respondents.

ATTORNEY CERTIFICATE FOR RECORD ON APPEAL

The undersigned hereby certifies that the Record on Appeal contains all material proposed by the Parties to be included by any of the parties, except for Plaintiffs' Exhibit 3 which is being filed separately, and not any other material.

March 24, 2014

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas/Master-In-Equity
James O. Spence, Master-In-Equity

Case No. 2011-CP-32-2968

Elizabeth L. Snow (f/k/a Elizabeth S. Bell), Mark S. Campitella, et al., ... Appellants,

v.

Judson P. Smith, et al., ... Respondents.

PROOF OF SERVICE

By signing below, I hereby acknowledge that I have this 28th day of March, served via hand delivery, the Record on Appeal and Plaintiff's Exhibit No. 3 upon the following:

H. Clayton Walker, Jr., Esq.
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March 28, 2014

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MAR 28 2014
SC Court of Appeals